

Judge Pauley,

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

08 Civ. 7392

TIME INC., HEARST CORPORATION, ADVANCE
MAGAZINE PUBLISHERS INC., AMERICAN
MEDIA, INC., HACHETTE FILIPACCHI MEDIA
U.S., INC., THE MCGRAW-HILL COMPANIES,
INC., NEWSWEEK, INC., SOURCE INTERLINK
MAGAZINES, LLC, REED BUSINESS
INFORMATION, A DIVISION OF REED
ELSEVIER INC., VARIETY, INC., REED
ELSEVIER PROPERTIES INC., BONNIER
CORPORATION, ZIFF DAVIS PUBLISHING
HOLDINGS INC., FORBES LLC, REIMAN MEDIA
GROUP, INC., RD LARGE EDITION, INC., HOME
SERVICE PUBLICATIONS, INC. and READER'S
DIGEST LATINOAMERICA SA,

Plaintiffs,

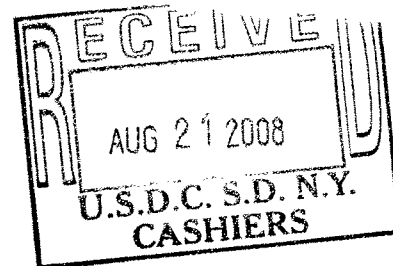
- against -

DARREN ANDREW BUDD, SALVEO LIMITED,
CYBERNET COMMUNICATIONS, INC.,
SWITCHWORKS TECHNOLOGIES, INC.,
HAMIDULLA GHUMAL ABBAS, YOAV
SCHWARTZ, RICK ROSS and JOHN DOES 1-20,

Defendants.

08 Civ. _____

COMPLAINT



Plaintiffs Time Inc., Hearst Corporation, Advance Magazine Publishers Inc. d/b/a Condé Nast Publications, American Media, Inc., Hachette Filipacchi Media U.S., Inc., The McGraw-Hill Companies, Inc., Newsweek, Inc., Source Interlink Magazines, LLC, Reed Business Information, a division of Reed Elsevier Inc., Variety, Inc., Reed Elsevier Properties Inc., Bonnier Corporation, Ziff Davis Publishing Holdings Inc., Forbes LLC, Reiman Media Group, Inc., RD Large Edition, Inc., Home Service Publications, Inc. and Reader's Digest Latinoamerica SA (collectively, the "Publishers") allege as follows for their complaint for copyright infringement, trademark infringement, false advertising and trademark dilution against defendants Darren Andrew Budd ("Budd"), Salveo Limited ("Salveo"), Cybernet Communications, Inc. ("Cybernet"), Switchworks Technologies, Inc. ("Switchworks")

Hamidulla Ghumal Abbas (“Abbas”), Yoav Schwartz (“Schwartz”), Rick Ross (“Ross”) and John Does 1-20.

NATURE OF THE ACTION

1. This complaint arises from the blatant, willful and wholesale infringement perpetrated by defendants Budd, Abbas, Schwartz and Ross through a website owned by Salveo, acting in concert with web hosts Cybernet and Switchworks. Together, defendants have infringed plaintiffs’ copyrights, and infringed and diluted plaintiffs’ trademarks, in their well-known magazines at the Mygazines.com web site (the “Infringing Website”). Defendants are reproducing, distributing and displaying unauthorized, full reproductions of literally hundreds of the Publishers’ magazines on the Infringing Website, in clear violation of the U.S. Copyright Act. In addition, their Infringing Website contributes to direct infringement by third-party users by actively inducing and encouraging those users to upload copyrighted content to the Infringing Website, to “share” that content with others, and to create derivative works by combining selective content from multiple publishers into a single work which defendants call a “mygazine”. The use of the Publishers’ magazines, including the titles and covers thereof, both on the Infringing Website and as a part of advertising and promotion for that Website, also constitutes a violation of plaintiffs’ rights under the Lanham Act.

2. Among other remedies, the Publishers seek to enjoin and restrain defendants from (1) hosting, reproducing, displaying, distributing or transmitting infringing copies of plaintiffs’ copyrighted magazine content in the United States; (2) inducing, causing, materially contributing to, or receiving a direct financial benefit from, the uploading, reproducing, posting, display, distribution or creation of derivative works from plaintiffs’ copyrighted magazine content by third parties in the United States; (3) using any trademark that is confusingly similar to, or dilutive of, any of plaintiffs’ names, titles, trademarks, trade dress or service marks; and (4) advertising the

Infringing Website in a manner that falsely states or implies that plaintiffs have authorized, licensed or endorsed defendants, their Website and/or their complained of actions.

THE PARTIES

Plaintiffs

3. Plaintiff Time Inc. ("Time") is a Delaware corporation with its principal place of business located at 1271 Avenue of the Americas, New York, New York 10020.

4. Among other corporate activities, Time publishes the following magazines: *Time*, *People*, *Entertainment Weekly*, *Sports Illustrated*, *Essence*, *Fortune*, *Golf*, *In Style*, *Money*, *People en Espanol*, *People Child Stars*, *People Style Watch*, *Real Simple*, *Sports Illustrated For Kids*, *This Old House*, *Coastal Living*, *Cooking Light*, *Health*, *Southern Accents*, *Business 2.0*, and *Southern Living*. Each of those magazines is widely distributed throughout the United States (including in New York).

5. Plaintiff Hearst Corporation ("Hearst") is a Delaware corporation with its principal place of business located at 300 West 57th St., New York, NY 10019.

6. Among other corporate activities, Hearst publishes the following magazines: *Cosmopolitan*, *CosmoGirl*, *Country Living*, *Good Housekeeping*, *Esquire*, *Harper's Bazaar*, *House Beautiful*, *O the Oprah Magazine*, *Popular Mechanics*, *Redbook*, *Seventeen*, *Smart Money*, *Town & Country*, *Marie Claire*, and *Veranda*. Each of those magazines is widely distributed throughout the United States (including in New York).

7. Plaintiff Advance Magazine Publishers Inc. d/b/a/ Condé Nast Publications ("Condé Nast") is a New York corporation with its principal place of business located at 4 Times Square, New York, NY 10036.

8. Among other corporate activities, Condé Nast publishes the following magazines: *Vogue*, *The New Yorker*, *Architectural Digest*, *Vanity Fair*, *Allure*, *Bon Appetit*, *Brides*, *Conde*

Nast Traveler, Details, Domino, Glamour, Gourmet, House & Garden, Lucky, Modern Bride, Self, Teen Vogue, W, and Wired. Each of those magazines is widely distributed throughout the United States (including in New York).

9. Plaintiff American Media, Inc., (“American Media”) is a Delaware corporation with its principal place of business located at 1000 American Media Way, Boca Raton, FL 33464-1000.

10. Among other corporate activities, American Media publishes *Country Weekly, FLEX, GLOBE, Men’s Fitness, MUSCLE & FITNESS, National Enquirer, SHAPE, and Star.* Each of those magazines is widely distributed throughout the United States (including in New York).

11. Plaintiff Hachette Filipacchi Media U.S., Inc., (“Hachette”) is a Delaware corporation with its principal place of business located at 1633 Broadway, New York, NY 10019.

12. Among other corporate activities, Hachette publishes *ELLE, ELLE Décor, ELLEGirl, Car and Driver, Road & Track, Metropolitan Home, Popular Photography, Sound & Vision, Boating and HOME.* Each of those magazines is widely distributed throughout the United States (including in New York).

13. Plaintiff The McGraw-Hill Companies, Inc. (“McGraw-Hill”) is a New York corporation with its principal place of business located at 1221 Avenue of the Americas, New York, NY 10020.

14. Among other corporate activities, McGraw-Hill publishes *BusinessWeek* and *Architectural Record.* Each of those magazines is widely distributed throughout the United States (including in New York).

15. Plaintiff Newsweek, Inc., (“Newsweek”) is a New York corporation with its principal place of business located at 251 West 57th Street, New York, NY 10019.

16. Among other corporate activities, Newsweek publishes *Newsweek* magazine, the well-known newsweekly. Newsweek also owns Newsweek Budget Travel, Inc. (“NBT”), the publisher of *Arthur Frommer’s Budget Travel* magazine. Both magazines are widely distributed throughout the United States (including in New York) and Canada.

17. Plaintiff Source Interlink Magazines, LLC, (“SIM”) is a Delaware limited liability company with its principal place of business located at 27500 Riverview Center Boulevard, Bonita Springs, Florida 34134.

18. Among other corporate activities, SIM publishes *Motor Trend*, *Automobile*, *Hot Rod*, *Soap Opera Digest*, *Soap Opera Weekly*, *Petersen’s 4 Wheel & Off Road*, *Four Wheeler*, *Readers’ Rigs*, *Motorcyclist*, *Motorcyclist Retro*, *ATV Rider*, *Dirt Rider*, *Car Craft*, and *Power Motor Yacht*. Each of those magazines is widely distributed throughout the United States (including in New York).

19. Plaintiff Reed Business Information, a division of Reed Elsevier Inc. (“Reed”), is a Massachusetts corporation with its principal place of business located at 360 Park Avenue South, New York, NY 10010-1710.

20. Among other corporate activities, Reed publishes *Interior Design*, which is widely distributed throughout the United States (including New York).

21. Plaintiff Variety, Inc. (“Variety”) is a New York corporation with its principal place of business at 5700 Wilshire Boulevard, Los Angeles, CA 90036.

22. Among other corporate activities, Variety publishes *Variety*, which is widely distributed throughout the United States (including New York).

23. Plaintiff Reed Elsevier Properties Inc. (“REPI”) is a Delaware corporation with its principal place of business located at 1105 North Market St., Wilmington, DE 19801.

24. Among other corporate activities, REPI owns the trademarks for the titles of *Variety* and *Interior Design*. Each of those magazines is widely distributed throughout the United States (including in New York).

25. Plaintiff Bonnier Corporation (“Bonnier”) is a Delaware corporation with its principal place of business located at 460 N. Orlando Ave., Suite 200, Winter Park, FL 32789.

26. Among other corporate activities, Bonnier publishes *Babytalk*, *Cruising World*, *Motor Boating*, *Outdoor Life*, *Parenting*, *Popular Science*, *Saveur*, *Transworld Skateboarding*, *Transworld Surf*, and *Yachting*. Each of those magazines is widely distributed throughout the United States (including in New York).

27. Plaintiff Ziff Davis Publishing Holdings, Inc. (“Ziff Davis”) is a Delaware corporation with its principal place of business at 28 East 28th Street, New York, NY 10016.

28. Among other corporate activities, Ziff Davis publishes *PC Magazine* and *Electronic Gaming Monthly*. Each of those magazines is widely distributed throughout the United States (including in New York).

29. Plaintiff Forbes LLC (“Forbes”) is a Delaware corporation with its principal place of business at 60 Fifth Avenue, New York, NY 10011.

30. Among other corporate activities, Forbes publishes *Forbes Magazine*, which is widely distributed throughout the United States (including New York).

31. Reader’s Digest Association (“RDA”) is the parent corporation of plaintiffs Home Service Publications, Inc. (“HSP”), Reiman Media Group, Inc. (“RMG”), Reader’s Digest Latinoamerica SA (“RDLA”) and RD Large Edition, Inc. (“RDLE”). RDA is a Delaware

corporation with its principal place of business at Reader's Digest Road, Pleasantville, New York, 10570-7000.

32. Among other corporate activities, RDA (through its subsidiaries) publishes *Reader's Digest Large Print*, *Selecciones*, *The Family Handyman*, *Taste of Home*, *Birds & Blooms* and *Country Woman*. Each of those magazines is widely distributed throughout the United States (including in New York).

33. Collectively, the Publishers' Magazines are among the most widely distributed magazines in the United States, and many are also distributed in Canada. They are widely accessible at newsstands and by subscription, and vast majority of Publishers own and operate websites that are affiliated with their respective Magazines, on which certain of the content published in the print issues of the Magazines is available.

34. Many of the Publishers also have relationships with online partners such as Zinio.com, through which digital editions of the Publishers' Magazines are made available for viewing by consumer, for a fee.

Defendants

35. Defendant Budd is an individual who is domiciled and resides at 21 Mayfair Avenue, Toronto, Ontario. Upon information and belief, Budd is the owner or one of the owners of the Infringing Website and has dominion and control over that website. He is the original domain registrant for www.mygazines.com, and has registered numerous other domain names that contain the term "mygazines". Budd has also submitted trademark applications for MYGAZINES in multiple classes to the United States Patent and Trademark Office ("USPTO"), and the Canadian Intellectual Property Office. Further, Budd actively engaged in advertising and promotion of the Infringing Website on the Internet and his name is listed within the internal computer code (Flash files) of the Website.

36. Salveo Limited is a purported corporate entity located at Mitchell House, P.O. Box 17, The Valley, the British Overseas Territory of Anguilla (“Anguilla”). Salveo is the current registrant of record for the www.mygazines.com domain name, as well as for other domain names that incorporate the term “mygazines”, the registration information for those domain names lists one “John Smith” as the contact person for the domain names. “John Smith”, upon information and belief, is an alias of defendant Budd. Press statements about the Infringing Website have been issued by a “John Smith” at the address listed for Salveo in Anguilla. Also, “John Smith” has posted a software application on the social networking website Facebook that allows users to “gift” their favorites magazines from the Infringing Website to friends.

37. Defendant Cybernet is a corporation organized and existing under the laws of Canada with its principal place of business at 20 Amber Street, Markham, Ontario. Cybernet provides web hosting services to the Infringing Website, including hosting all of the scanned magazine content used in connection with the Infringing Website, on multiple computer servers. Despite due demands from the Publishers and take-down notices under the Digital Millennium Copyright Act (“DMCA”), Cybernet has continued to host the Website and, upon information and belief, is fully aware of the infringing nature of the Website.

38. Defendant Switchworks is a corporation organized and existing under the laws of Canada with its principal place of business at 23 Triller Avenue, Suite 201, Toronto Ontario. Switchworks provides web hosting services to the Infringing Website, including hosting all of the scanned magazine content used in connection with the Infringing Website, on multiple computer servers. Despite due demands from the Publishers and DMCA take-down notices, Cybernet has continued to host the Website and, upon information and belief, is fully aware of

the infringing nature of the Website. Upon information and belief, Switchworks also provides financial and/or business support for the Infringing Website.

39. Defendant Ross is an individual who is domiciled and resides at an unknown address in Toronto, Canada. Ross is the president and/or owner of defendants Cybernet and Switchworks and, upon information and belief, exercises dominion and control over those entities. Ross has described his company Switchworks as an “incubator” for Internet companies, and is the sponsor (and domain name owner) for a website called “MyPersona.ca”; in addition, the website for his company Cybernet is located at the domain name mycybernet.net, and the home page refers to the site as “MyCybernet”. Upon information and belief, the “Mygazines” website is another “My___” website for which Ross provides substantial financial support.

40. Defendant Hamidulla Ghumal Abbas is an individual who is domiciled and resides at 95 Thorncliffe Drive, Toronto, Ontario. Upon information and belief, Abbas assisted in the creation of the Infringing Website and actively participates in its continuing operations. Abbas’ name appears within the source code for the Infringing Website, and Abbas was the third “friend” to sign up for the Website and has registered multiple aliases on the Site. Abbas is a computer programmer with an expertise in the type of website design and coding used in the Infringing Website. He is listed as a “friend” of the “John Smith” on Facebook who posted the Mygazines.com “gift” application, and indeed until July 31, 2008 was listed as John Smith’s only friend.

41. Defendant Yoav Schwartz is an individual who is domiciled and resides at 10 Bellair Street, Unit 1604, Toronto, Ontario. Upon information and belief, Schwartz assisted in the creation of the Infringing Website and actively participates in its continuing operations. Schwartz’s name appears within the source code for the Infringing Website, and Schwartz was

the second “friend” to sign up for the Website, under the aliases “yms” and “yostar”. Schwartz is an expert in Flash and PHP coding for websites, which are major features of the Infringing Website. Schwartz has made numerous postings on the social bookmarking website Digg.com, promoting the Infringing Website. Schwartz is also listed as a “friend” of Darren Budd on a website known as Gigpark.com.

JURISDICTION AND VENUE

42. This Court has federal subject matter jurisdiction with respect to this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1332 and 1338.

43. This Court has personal jurisdiction, pursuant to Fed. R. Civ. P., Rule 4(k)(1)(A) and New York CPLR § 302, over all defendants on the grounds that they have, upon information and belief, (a) transacted business within this District via the exchange of information between defendants and website users located in the District; (b) induced and encouraged the commission of tortious acts by third parties within the District; (c) caused the commission of tortious acts by third parties in this District; (d) caused injury to property within the District, where they should reasonably have expected their acts to have consequences, and have derived, or will derive, substantial revenue from interstate or international commerce. Alternatively, and upon information and belief, this Court has personal jurisdiction pursuant to Fed. R. Civ. P., Rule 4(k)(2), on the ground that defendants are not subject to jurisdiction in any state’s courts of general jurisdiction.

44. Venue is proper in this District pursuant to 28 U.S.C. 1391(b)(2).

FACTUAL BACKGROUND

The Infringing Content on the Mygazines.com Website

45. Upon information and belief, the Infringing Website went live on or around July 19, 2008, and at that time was fully populated with uniform, high-quality content, including

unauthorized copies of multiple issues of magazines published by each of the Publishers as detailed below.

Time's Magazines

46. The Infringing Website contains entire copies of recent issues of the following magazines published by Time: *Time*, *People*, *Entertainment Weekly*, *Sports Illustrated*, *Essence*, *Fortune*, *Golf*, *In Style*, *Money*, *People en Espanol*, *People Child Stars*, *People Style Watch*, *Real Simple*, *Sports Illustrated For Kids*, *This Old House*, *Coastal Living*, *Cooking Light*, *Health*, *Southern Accents*, and *Southern Living*. In many cases, issues of each magazine for different weeks or months are available on the Infringing Website. For example, for *People*, all eight weekly issues from July and August 2008 are posted on the Infringing Website. A list of all issues of the above magazines that appear on the Infringing Website is annexed hereto as Exhibit A.

47. The foregoing works published by Time, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States (the copyrighted content belonging to all plaintiffs and displayed on the Mygazines.com site is referred to hereinafter, collectively, as the "Magazines"). Those works may only be published, reproduced, distributed and displayed by Time, or pursuant to Time's permission, and only Time may authorize the creation of derivative works based on its copyrighted content in their magazines.

48. Time holds valid and subsisting copyright registrations for the following magazines issues: *Time*, April 7, 2008, April 14, 2008, Summer 2008 (S&D), April 21, 2008, April 28, 2008, May 5, 2008, May 12, 2008, May 19, 2008, May 25, 2008, June 2, 2008, June 9, 2008, June 16, 2008, June 23, 2008, June 30, 2008, July 7, 2008, July 14, 2008, July 21, 2008, July 28, 2008, August 4, 2008 and August 11, 2008, *People*, April 7, 2008, April 14, 2008, April 21, 2008, April 28, 2008, May 5, 2008, May 12, 2008, May 19, 2008, June 2008 (Jones),

May 26, 2008, June 2008 (Country), June 2, 2008, June 9, 2008, June 16, 2008, June 23, 2008, June 30, 2008, July 7, 2008, July 2008, July 14, 2008, July 21, 2008, August 4, 2008, August 11, 2008 and August 18, 2008, *People En Espanol*, June 2008, July 2008 and August 2008, *People Stylewatch*, June/July 2008, *Golf Magazine*, May 2008, June 2008, July 2008 and August 2008, *Sports Illustrated*, April 7, 2008, April 8, 2008, April 14, 2008, April 21, 2008, April 28, 2008, May 5, 2008, May 6, 2008, May 12, 2008, May 19, 2008, May 26, 2008, June 2, 2008, June 9, 2008, June 10, 2008, June 16, 2008, June 23, 2008, June 30, 2008, July 7, 2008, July 14-21, 2008, July 28, 2008 and August 4, 2008, *Sports Illustrated for Kids*, June 2008, July 2008 and August 2008, *Fortune*, March 17, 2008, March 31, 2008, April 14, 2008 April 28, 2008, May 5, 2008, May 12, 2008, May 26, 2008, June 9, 2008, June 23, 2008, July 7, 2008 and July 21, 2008, *Entertainment Weekly*, June 20, 2008, June 27, 2008, July 4, 2008, July 11, 2008, July 18, 2008, July 25, 2008, August 1, 2008 and August 8, 2008, *InStyle*, May 2008, June 2008 and July 2008 and August 2008 *Real Simple*, May 2008, June 2008 and August 2008, *Essence*, May 2008, June 2008, July 2008 and August 2008, *This Old House*, June 2008 and July/August 2008, *Money*, May 2008, June 2008 and July 2008. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

49. The foregoing works published by Time, copies of which are displayed by Mygazines.com on the Infringing Website, also bear valid and subsisting trademarks owned by Time and used in interstate commerce, which may only be used by Time, or pursuant to Time's license or authority.

50. Time and its wholly owned subsidiaries hold valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: BUSINESS 2.0; FORTUNE; FORTUNE (Stylized); FORTUNE 500; FORTUNE SMALL BUSINESS; FSB; IN

STYLE; INSTYLE; INSTYLE In Bar Logo; INSTYLE LOGO; MONEY; PEOPLE EN ESPANOL; PEOPLE LOGO; REAL SIMPLE; SI FOR KIDS; SPORTS ILLUSTRATED; SPORTS ILLUSTRATED FOR KIDS; SPORTS ILLUSTRATED KIDS; SPORTS ILLUSTRATED KIDS LOGO; STYLE WATCH; TIME; TIME and Red Border Cover Design; TIME Logo; Time Red Border Cover Design; COOKING LIGHT; COOKING LIGHT EAT SMART, BE FIT, LIVE WELL; SOUTHERN LIVING; COASTAL LIVING; SOUTHERN ACCENTS; ESSENCE; ENTERTAINMENT WEEKLY; GOLF; GOLF (STYLIZED); GOLF MAGAZINE; GOLF MAGAZINE (STYLIZED); HEALTH; THIS OLD HOUSE and THIS OLD HOUSE LOGO. (The trademarks belonging to all plaintiffs and displayed on the Mygazines.com site or used to advertise the Mygazines.com site, are referred to hereinafter, collectively, as the “Marks”.) A list of these trademark registrations is included as part of Exhibit A.

51. In addition to the foregoing federal registrations, Time and its wholly owned subsidiaries have common law rights in their magazine titles, logos, trade dress and other elements of each of their magazines, in light of their continuous and exclusive use of those marks in commerce and the public’s recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with Time and its magazines.

52. A number of Time’s trademarks have become what are termed famous marks including, *inter alia*, TIME, PEOPLE, SPORTS ILLUSTRATED, FORTUNE, IN STYLE, MONEY, SOUTHERN LIVING, ESSENCE, ENTERTAINMENT WEEKLY, and GOLF.

Hearst’s Magazines

53. The Infringing Website contains copies of the following magazines published by Hearst: *CosmoGirl*, *Cosmopolitan*, *Country Living*, *Good Housekeeping*, *Harper’s Bazaar*, *House Beautiful*, *Marie Claire*, *O The Oprah Magazine*, *Popular Mechanics*, *Redbook*,

Seventeen, *Smart Money*, *Town & Country*, and *Veranda*. In many cases, issues of each magazine for different months are available on the Infringing Website. For example, for *Esquire*, the June, July, August and September 2008 issues are posted on the Infringing Website. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

54. The foregoing works published by Hearst, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by Hearst, or pursuant to Hearst's permission, and only Hearst may authorize the creation of derivative works based on its copyrighted content in their magazines.

55. Hearst (through its subsidiaries and joint venture relationships) holds valid and subsisting copyright registrations for the following magazines issues: *CosmoGirl*, August 2008, June/July 2008; *Cosmopolitan*, Summer/Fall 2008, August 2008, June 2008; *Country Living*, August 2008, July 2008, June 2008; *Esquire*, August 2008, July 2008, June 2008; *Good Housekeeping*, August 2008, June 2008; *Harper's Bazaar*, August 2008, July 2008, June 2008, Sept. 2007; *House Beautiful*, August 2008, July 2008, August 2007; *Marie Claire*, August 2008, June 2008, May 2008; *O The Oprah Magazine*, August 2008, July 2008, June 2008; *Popular Mechanics*, August 2008, June 2008; *Redbook*, August 2008, July 2008, June 2008; *Seventeen*, August 2008, June 2008; *Smart Money*, August 2008, July 2008, June 2008; *Town & Country*, August 2008, June 2008; and *Veranda*, August 2008. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

56. The foregoing works published by Hearst, copies of which are displayed by Mygazines.com on the Infringing Website, also bear valid and subsisting trademarks owned by

or licensed to Hearst, and used in interstate commerce, which may only be used by Hearst, or pursuant to Hearst's license or authority.

57. Hearst (through its subsidiaries and joint venture relationships) holds or is licensed to use valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: COSMO GIRL; COSMOPOLITAN; COSMOPOLITAN STYLE; COUNTRY LIVING; ESQUIRE; GOOD HOUSEKEEPING; HARPER'S BAZAAR; HOUSE BEAUTIFUL; MARIE CLAIRE; O THE OPRAH MAGAZINE; POPULAR MECHANICS; REDBOOK; SEVENTEEN; SEVENTEEN PROM; SMARTMONEY; TOWN & COUNTRY; TOWN & COUNTRY TRAVEL; and TOWN & COUNTRY WEDDINGS. A list of these trademark registrations is included as part of Exhibit A.

58. In addition to the foregoing federal registrations, Hearst has (or is licensed to use) common law rights in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with Hearst and its magazines.

59. A number of Hearst's trademarks have become what are termed famous marks including, *inter alia*, ESQUIRE, COSMOPOLITAN, HARPER'S BAZAAR, O THE OPRAH MAGAZINE and GOOD HOUSEKEEPING.

Condé Nast's Magazines

60. The Infringing Website contains copies of the following magazines published by Condé Nast: *Allure*, *Architectural Digest*, *Bon Appetit*, *Brides*, *Condé Nast Traveler*, *Details*, *Domino*, *Glamour*, *Gourmet*, *Lucky*, *Modern Bride*, *The New Yorker*, *Self*, *Teen Vogue*, *Vanity Fair*, *Vogue*, *W*, *Wired* and *Wired Geekipedia*. In many cases, issues of each magazine for different weeks or months are available on the Infringing Website. For example, for *Vanity Fair*,

the June, July, August and September 2008 issues are posted on the infringing Website. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

61. The foregoing works published by Condé Nast, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by Condé Nast, or pursuant to Condé Nast' permission, and only Condé Nast may authorize the creation of derivative works based on its copyrighted content in their magazines.

62. Condé Nast holds valid and subsisting copyright registrations for the following magazines issues: *Allure*, June 2008, July 2008 and August 2008, *Architectural Digest*, issues dated January 2007, February 2007, March 2007, April 2007, May 2007, June 2007, September 2007, October 2007, November 2007, May 2008, July 2008 and August 2008, *Bon Appetit*, June, July and August 2008, *Brides* July and August 2008, *Condé Nast Traveler*, July and August 2008, *Details*, January/February 2006, June/July 2007, June/July 2008 and August 2008, *Domino*, June/July 2008 and August 2008, *Glamour*, May 2008, June 2008 and August 2008, *Gourmet*, July 2008 and August 2008, *Lucky*, July 2008 and August 2008, *Modern Bride*, June/July 2008 and August/September 2008, *The New Yorker*, April 7, 2008, April 14, 2008, April 21, 2008, April 28, 2008, May 5, 2008, May 12, 2008, May 19, 2008, May 26, 2008, June 2, 2008, June 9, 2008, June 16, 2008, June 23, 2008, June 30, 2008, July 7, 2008, July 14, 2008, July 21, 2008, July 28, 2008, August 4, 2008, August 11, 2008, August 18, 2008, *Self*, June 2008, July 2008 and August 2008, *Teen Vogue*, June/July 2008 and August 2008, *Vanity Fair*, June 2008, July 2008 and August 2008, *Vogue*, June 2008, July 2008 and August 2008, *W*, August 2008, *Wired*, October 2004, January 2006, January 2008, February 2008, March 2008, April 2008, May 2008,

June 2008, July 2008 and August 2008, and *Wired Geekipedia*, October 2007. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

63. The foregoing works published by Condé Nast, copies of which are displayed by Mygazines.com on the Infringing Website, also utilize, incorporate or contain valid and subsisting trademarks owned by Condé Nast, which may only be used by Condé Nast, or pursuant to Condé Nast's permission.

64. Condé Nast holds valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: ALLURE; ARCHITECTURAL DIGEST; ARCHITECTURAL DIGEST (DESIGN); BON APPETIT; BRIDES; CONDE NAST TRAVELER; DETAILS; DOMINO; GLAMOUR; GOURMET; LUCKY; MODERN BRIDE; THE NEW YORKER; SELF; TEEN VOGUE; VANITY FAIR; VOGUE; W; and WIRED; . A list of these trademark registrations is included as part of Exhibit A.

65. In addition to the foregoing federal registrations, Condé Nast has common law rights in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with Condé Nast and its magazines.

66. A number of Condé Nast's trademarks have become what are termed famous marks including, *inter alia*, THE NEW YORKER, VANITY FAIR, VOGUE, GLAMOUR, ARCHITECTURAL DIGEST, AND GOURMET.

American Media's Magazines

67. The Infringing Website contains copies of the following magazines published by American Media: *Country Weekly*, *FLEX*, *GLOBE*, *Men's Fitness*, *MUSCLE & FITNESS*, *NATIONAL ENQUIRER*, *SHAPE*, and *Star*. In many cases, issues of each magazine for different

weeks or months are available on the Infringing Website. For example, for *NATIONAL ENQUIRER*, all eight weekly issues from June and July 2008 are posted on the infringing Website, as well as one weekly issue from August 2008. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

68. The foregoing works published by American Media, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by American Media, or pursuant to American Media's permission, and only American Media may authorize the creation of derivative works based on its copyrighted content in their magazines.

69. American Media hold valid and subsisting for the following copyright registrations magazine issues: *Country Weekly*: June 2, 2008, 2008, June 16, 2008, June 30, 2008, July 14, 2008, July 28, 2008, and August 11, 2008, *FLEX*, June 2008, July 2008, and August 2008, *GLOBE*, June 23, 2008, June 30, 2008, July 7, 2008, July 14, 2008, July 21, 2008, July 28, 2008, August 4, 2008, and August 11, 2008, *Men's Fitness*, June/July 2008 and August 2008, *MUSCLE & FITNESS*, July 2008, August 2008, and September 2008, *NATIONAL ENQUIRER*, June 9, 2008, June 16, 2008, June 23, 2008, June 30, 2008, July 7, 2008, July 14, 2008, July 21, 2008, July 28, 2008, August 4, 2008, and August 11, 2008, *SHAPE*, August 2008 and September 2008, *Star* May 26, 2008, June 2, 2008, June 9, 2008, June 16, 2008, June 23, 2008, June 30, 2008, July 7, 2008, July 14, 2008, July 21, 2008, July 28, 2008, and August 4, 2008. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

70. The foregoing works published by American Media, copies of which are displayed by Mygazines.com on the Infringing Website, also bear valid and subsisting trademarks owned by American Media, and used in interstate commerce, which may only be used by American Media, or pursuant to American Media's license or authority.

71. American Media holds valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: COUNTRY WEEKLY; FLEX; GLOBE; MEN'S FITNESS; MUSCLE & FITNESS; NATIONAL ENQUIRER; SHAPE; and STAR. A list of these trademark registrations is included as part of Exhibit A.

72. In addition to the foregoing federal registrations, American Media has common law rights in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with American Media and its magazines.

73. A number of American Media's trademarks have become what are termed famous marks including, *inter alia*, NATIONAL ENQUIRER, GLOBE and STAR.

Hachette's Magazines

74. The Infringing Website contains copies of the following magazines published by Hachette: *BOATING*, *Car & Driver*, *ELLE*, *ELLE Décor*, *ELLE Girl*, *Flying*, *HOME*, *Metropolitan Home*, *Popular Photography*, *Road & Track*, and *Sound & Vision*. In many cases, issues of each magazine for different weeks or months are available on the Infringing Website. For example, for *Car and Driver*, the July, August and September 2008 issues are posted on the Infringing Website. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

75. The foregoing works published by Hachette, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by Hachette, or pursuant to Hachette's permission, and only Hachette may authorize the creation of derivative works based on its copyrighted content in their magazines.

76. Hachette holds valid and subsisting copyright registrations for the following magazines issues: *BOATING*, July and August 2008; *Car and Driver*, July, August and September 2008; *ELLE*, July 2008; *ELLE Décor*, March 2006, July/August 2008; *ELLE Girl*, February and March 2006; *Flying*, August 2008; *HOME*, June and July 2008; *Metropolitan Home*, June, July and August 2008; *Popular Photography*, July and August 2008; *Road & Track*, August and September 2008; and *Sound & Vision*, July 2008. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

77. The foregoing works published by Hachette, copies of which are displayed by Mygazines.com on the Infringing Website, also bear valid and subsisting trademarks owned by Hachette, and used in interstate commerce, which may only be used by Hachette, or pursuant to Hachette's license or authority.

78. Hachette holds valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: BOATING; CAR AND DRIVER; FLYING; HOME; METROPOLITAN HOME; POPULAR PHOTOGRAPHY; ROAD & TRACK and SOUND & VISION. Hachette holds an exclusive license from Hachette Filipacchi Presse, its corporate affiliate, to use the ELLE, ELLE DECOR and ELLE GIRL trademarks on magazines, websites and related products and services in the United States. A list of these trademark registrations is included as part of Exhibit A.

79. In addition to the foregoing federal registrations, Hachette has (or is licensed to use) common law rights in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with Hachette and its magazines.

80. A number of Hachette's trademarks have become what are termed famous marks including, *inter alia*, ELLE, CAR and DRIVER, ROAD & TRACK, POPULAR PHOTOGRAPHY.

McGraw-Hill's Magazines

A. The Infringing Website contains copies of the following magazines published by McGraw-Hill: *BusinessWeek* and *Architectural Record*. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

81. The foregoing works published by McGraw-Hill, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by McGraw-Hill, or pursuant to McGraw-Hill's permission, and only McGraw-Hill may authorize the creation of derivative works based on its copyrighted content in their magazines.

82. McGraw-Hill has valid and subsisting copyright registrations for the following magazines issues: *BusinessWeek*, May 19, 2008, May 26, 2008, June 2, 2008, June 9, 2008, June 16, 2008, June 23, 2008, June 30, 2008, July 7, 2008, July 14 & 21, 2008, July 28, 2008, August 4, 2008 and August 11, 2008, and *Architectural Record*, May 2008, June 2008 and July 2008. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

83. The foregoing works published by McGraw-Hill, copies of which are displayed by Mygazines.com on the Infringing Website, also bear valid and subsisting trademarks owned by McGraw-Hill, and used in interstate commerce, which may only be used by McGraw-Hill, or pursuant to McGraw-Hill's license or authority.

84. McGraw-Hill holds valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: BUSINESSWEEK; the BUSINESSWEEK Logo and ARCHITECTURAL RECORD. A list of these trademark registrations is included as part of Exhibit A.

85. In addition to the foregoing federal registrations, McGraw-Hill has common law rights in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with McGraw-Hill and its magazines.

86. A number of McGraw-Hill's trademarks have become what are termed famous marks including, *inter alia*, BUSINESSWEEK and ARCHITECTURAL RECORD.

Newsweek's Magazines

87. The Infringing Website contains copies of the following magazines published by Newsweek: *NEWSWEEK* and *ARTHUR FROMMER'S BUDGET TRAVEL*. In many cases, issues of each magazine for different weeks or months are available on the Infringing Website. For example, for *Newsweek*, 13 issues between May 5, 2008 and August 11, 2008 are posted on the Infringing Website. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

88. The foregoing works published by Newsweek, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright

protection in the United States. Those works may only be published, reproduced, distributed and displayed by Newsweek, or pursuant to Newsweek's permission, and only Newsweek may authorize the creation of derivative works based on its copyrighted content in their magazines.

89. Newsweek holds valid and subsisting copyright registrations for the following magazines issues: *Newsweek*, May 5, 2008, May 12, 2008, June 16, 2008, June 23, 2008, July 7, 2008, July 21, 2008, July 28, 2008, August 4, 2008, and August 11, 2008, and *Arthur Frommer's Budget Travel*, July/August 2008. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

90. The foregoing works published by Newsweek, copies of which are displayed by Mygazines.com on the Infringing Website, also utilize, incorporate or contain valid and subsisting trademarks owned by Newsweek, which may only be used by Newsweek, or pursuant to Newsweek's permission.

91. Newsweek holds valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: NEWSWEEK and BUDGETTRAVEL. A list of these trademark registrations is included as part of Exhibit A.

92. In addition to the foregoing federal registrations, Newsweek has common law right in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with Newsweek and its magazines.

93. The NEWSWEEK trademark has become what is termed a famous mark.

SIM's Magazines

94. The Infringing Website contains copies of the following magazines published by SIM: *Automobile Magazine*, *Motor Trend Magazine*, *Hot Rod Magazine*, *Soap Opera Digest*,

Soap Opera Weekly, *Petersen's 4 Wheel & Off Road Magazine*, *Four Wheeler Magazine*, *Readers' Rigs Magazine*, *Motorcyclist Magazine*, *Motorcyclist Retro*, *ATV Rider Magazine*, *Dirt Rider*, and *Car Craft Magazine*. In many cases, issues of each magazine for different weeks or months are available on the Infringing Website. For example, for *Soap Opera Weekly*, all 5 weekly issues from July 2008 are posted on the infringing Website, as well as three weekly issues from August 2008. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

95. The foregoing works published by SIM, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by SIM, or pursuant to SIM's permission, and only SIM may authorize the creation of derivative works based on its copyrighted content in their magazines.

96. SIM holds valid and subsisting copyright registrations for the following magazines issues: *Automobile Magazine* July 2008, August 2008 and September 2008, *Motor Trend Magazine*, July 2008, August 2008, and September 2008. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

97. The foregoing works published by SIM, copies of which are displayed by Mygazines.com on the Infringing Website, also bear valid and subsisting trademarks owned by SIM, and used in interstate commerce, which may only be used by SIM, or pursuant to SIM's license or authority.

98. SIM holds valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: MOTOR TREND; AUTOMOBILE; HOT ROD; SOAP OPERA DIGEST; SOAP OPERA WEEKLY; PETERSEN'S 4 WHEEL & OFF ROAD;

FOUR WHEELER; MOTORCYCLIST; ATV RIDER; DIRT RIDER; and POWER & MOTORYACHT. A list of these trademark registrations is included as part of Exhibit A.

99. In addition to the foregoing federal registrations, SIM has common law rights in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with SIM and its magazines.

100. A number of SIM's trademarks have become what are termed famous marks including, *inter alia*, MOTOR TREND, AUTOMOBILE, HOT ROD, SOAP OPERA DIGEST, AND SOAP OPERA WEEKLY.

Reed and Variety's Magazines

101. The Infringing Website contains copies of the following magazines published by Reed and Variety (collectively, "Reed"): *Variety* and *Interior Design*. In many cases, issues of each magazine for different weeks or months are available on the Infringing Website. For example, for *Interior Design*, the May, June and September 2008 issues are posted on the Infringing Website. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

102. The foregoing works published by Reed, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by Reed, or pursuant to Reed's permission, and only Reed may authorize the creation of derivative works based on its copyrighted content in their magazines.

103. Reed holds valid and subsisting copyright registrations for the following magazines issues: June 2-8, 2008, June 9-15, 2008, June 16-22, 2008, June 23-29, 2008 and

June 30-July 13, 2008. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

104. The foregoing works published by Reed, copies of which are displayed by Mygazines.com on the Infringing Website, also bear valid and subsisting trademarks owned by REPI, and used in interstate commerce, which may only be used by REPI, or pursuant to REPI's license or authority.

105. REPI holds valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: INTERIOR DESIGN and VARIETY. A list of these trademark registrations is included as part of Exhibit A.

106. In addition to the foregoing federal registrations, REPI has common law right in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with Reed and its magazines.

107. A number of REPI's trademarks have become what are termed famous marks including, *inter alia*, VARIETY and INTERIOR DESIGN.

Bonnier's Magazines

108. The Infringing Website contains copies of the following magazines published by Bonnier: *Parenting*, *Popular Science*, *Outdoor Life*, *Babytalk*, *Cruising World*, *Motor Boating*, *Saveur*, *Transworld Skateboarding*, *Transworld Snowboarding*, *Transworld Surf*, and *Yachting*. In many cases, issues of each magazine for different weeks or months are available on the Infringing Website. For example, for *Popular Science*, the May, June, August and September 2008 issues are posted on the Infringing Website. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

109. The foregoing works published by Bonnier, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by Bonnier, or pursuant to Bonnier's permission, and only Bonnier may authorize the creation of derivative works based on its copyrighted content in their magazines.

110. Bonnier holds valid and subsisting copyright registrations for the following magazines issues: *Parenting*, June 2008 and August 2008, *Popular Science*, June 2008 and August 2008, *Outdoor Life*, May 2008 and June/July 2008. A list of the copyright registration numbers for each of the above issues is included as part of Exhibit A.

111. The foregoing works published by Bonnier, copies of which are displayed by Mygazines.com on the Infringing Website, also bear valid and subsisting trademarks owned by Bonner, and used in interstate commerce, which may only be used by Bonnier, or pursuant to Bonnier's license or authority.

112. Bonnier holds valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: BABY TALK; BABY TALK Logo; CRUISING WORLD; MOTOR BOATING; OUTDOOR LIFE; PARENTING; POPULAR SCIENCE; TRANSWORLD SKATEBOARDING; TRANSWORLD SURF and YACHTING. A list of these trademark registrations is included as part of Exhibit A.

113. In addition to the foregoing federal registrations, Bonnier has common law right in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with Bonnier and its magazines.

114. A number of Bonnier's trademarks have become what are termed famous marks including, *inter alia*, POPULAR SCIENCE and OUTDOOR LIFE.

Ziff Davis' Magazines

115. The Infringing Website contains copies of the following magazines published by Ziff Davis: *PC Magazine* and *Electronic Gaming Monthly*. In many cases, issues of each magazine for different weeks or months are available on the Infringing Website. For example, for *PC Magazine*, the February, July, August and September 2008 issues are posted on the Infringing Website. A list of all issues of the above magazines that appear on the Infringing Website is included as part of Exhibit A.

116. The foregoing works published by Ziff Davis, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by Ziff Davis, or pursuant to Ziff Davis's permission, and only Ziff Davis may authorize the creation of derivative works based on its copyrighted content in their magazines.

117. Ziff Davis has applied to the Copyright Office for expedited registration of the foregoing issues and expects for the applications to be approved by the Copyright Office within the next few days. A list of the expedited copyright applications for each of the above issues is included as part of Exhibit A.

118. The foregoing works published by Ziff Davis, copies of which are displayed by Mygazines.com on the Infringing Website, also bear valid and subsisting trademarks owned by Ziff Davis, and used in interstate commerce, which may only be used by Ziff Davis, or pursuant to Ziff Davis's license or authority.

119. Ziff Davis holds valid and subsisting federal trademark registrations for the following titles or elements of the foregoing magazines: PC MAGAZINE and ELECTRONIC GAMING MONTHLY. A list of these trademark registrations is included as part of Exhibit A.

120. In addition to the foregoing federal registrations, Ziff Davis has common law rights in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with Ziff Davis and its magazines.

121. The PC MAGAZINE trademark has become what is termed a famous mark.

Forbes' Magazines

122. The Infringing Website contains copies of *Forbes* magazine, which is published by Forbes.

123. The foregoing works published by Forbes, copies of which are displayed by Mygazines.com on the Infringing Website, are subject to valid and subsisting copyright protection in the United States. Those works may only be published, reproduced, distributed and displayed by Forbes, or pursuant to Forbes's permission, and only Forbes may authorize the creation of derivative works based on its copyrighted content in their magazines.

124. Forbes has applied to the Copyright Office for expedited registration of the foregoing issues and expects for the applications to be approved by the Copyright Office shortly. A list of the copyright applications for each of the above issues is included as part of Exhibit A.

125. The foregoing works published by Forbes, copies of which are displayed by Mygazines.com on the Infringing Website, also utilize, incorporate or contain valid and subsisting trademarks owned by Forbes, which may only be used by Forbes, or pursuant to Forbes's permission.

126. Forbes holds valid and subsisting federal trademark registrations for FORBES. A list of these trademark registrations is included as part of Exhibit A.

127. In addition to the foregoing federal registrations, Forbes has common law rights in its magazine titles, logos, trade dress and other elements of each of its magazines, in light of its continuous and exclusive use of those marks in commerce and the public's recognition of those trademarks, logos, trade dress and other elements as an indication of the source of the products and services associated with Forbes and its magazines.

128. The FORBES trademark has become what is termed a famous mark.

The Infringing Website's Functionality

129. The Infringing Website purports to be a "free place to browse, share, archive and customize unlimited magazine articles uploaded by ... the Mygazines community". The site's tagline or slogan reads: "upload. share. archive." The site further proclaims that "[y]our document will be converted by our system into an interactive publication allowing users from all over the world to read, comment, share and archive articles from your publication until the end of time!"

130. Upon information and belief, notwithstanding defendants' invitation to users of the Website to "upload. share. archive", the vast majority of the magazines displayed on the Infringing Website were copied (scanned) and uploaded by defendant Budd and/or by employees or affiliates of Mygazines.com itself, rather than by third-party users. That conclusion is evident from the speed with which the full reproductions of the Magazines appeared and the uniformity of the quality of the scanned images on the Infringing Website.

131. Copies of material uploaded to the Infringing Website have been and continue to be copied and stored by defendants in multiple different files of differing sizes, in multiple locations, on different computer servers.

132. Defendants are responsible for the reproduction, transmission, display and distribution of the unauthorized copies of the Publishers' Magazines on the Infringing Website to users in the United States.

133. The Infringing Website also invites users to recompile individual articles from different magazines emanating from different publishers into a new collective work, as follows:

So what are you to do with all these articles you like? Why not archive them into your own personal magazines, or, "mygazines": a collection of articles arranged just the way you like them. Each of your mygazines can be focused on an area of interest – you could setup "recipes" mygazines and store all those pie recipes you found. Redecorating your bedroom? Create "bedrooms" mygazines and store all the articles you find on bedroom décor. You can create as many mygazines as you like and store as many or as few articles in each as you like. The possibilities are endless!

134. Hundreds of derivative "mygazines", comprised of magazine articles from different publishers including some of the Publishers-plaintiffs, are now available on the Website. Upon information and belief, defendants – including defendants Abbas and Schwartz, whose "mygazines" are listed under aliases known to be associated with those defendants – created many of those "mygazines" themselves, without permission or authority of the owners of the copyrights and trademarks pertaining to the magazines used to create these unauthorized derivative works.

135. Upon information and belief, a few third-party users have now uploaded and posted content from Magazines owned by plaintiffs onto Mygazines.com, including individuals who reside in the State of New York (as detailed below).

136. The Infringing Website displays and seeks uploads of magazine content copyrighted and published by parties other than third-party users of the Website themselves, and thus contains virtually no non-infringing content.

137. The Infringing Website is designed to allow, allows, and encourages users to email links to magazines, articles or customized “mygazines” to others, to “share” magazines, articles and “mygazines” with other members of the Site, and to bookmark or save favorite content on the Site.

138. Other than two boilerplate sentences in the Terms of Use, nowhere on the Infringing Website is there any indication that users should not post copyrighted magazine content. Indeed, to the contrary, the Terms of Use state:

By uploading, submitting or otherwise disclosing or distributing Content for display or inclusion on the Site, you represent and warrant that either:

- you purchased the Content,
- you created the Content,
- you own the rights to the Content, and/or
- the Content is freely distributed by its Creator.

By advising that users who have merely “purchased” content are free to upload that content to the Infringing Website, defendants are clearly encouraging and inducing users to upload copyright-protected content, with the full knowledge that such acts are infringing.

139. The names and full covers of plaintiffs’ Magazines are displayed throughout the Infringing Website. Clicking on those covers leads to web pages within the site dedicated to each Magazine issue. The home page of the Site includes, at the top of the page, a revolving, virtual “news rack” displaying a changing assortment of magazine covers, including many of plaintiffs’ respective Magazine covers, creating the false impression that the Publishers have licensed, authorized or endorsed the Website to display their Magazines and to create and encourage others to create and share unauthorized derivative works under the trademarks of multiple unrelated publishers.

140. Defendants use the titles of the Magazines which are the Publishers' respective trademarks, and the covers of those Magazines which are likewise protected as trade dress, throughout the Infringing Website, joining those trademarks with and linking them to defendant Budd's "MYGAZINES" trademark, in a manner which blurs the distinctive nature of the Publishers' respective trademarks. Similarly, defendants encourage users to combine articles from multiple publishers, many of which bear the respective publisher's famous and distinctive trademarks as indicators of origin, into one "mygazine", which blurs each Publisher's trademark included in the "mygazine".

141. Defendants encourage users to create titles for each "mygazine" issue they create, to be used as labels for the magazine issues. With this clear identification of the copyright-protected magazine issues users select to include in a "mygazine", it would be a simple matter for defendants to filter out copyright-protected content, but defendants do not do so.

Plaintiffs Give Notice of Infringement to Mygazines.com and its Web Hosts While the Owner of the Infringing Website Attempts to Conceal His Identity

142. Upon information and belief, within a few weeks of the Infringing Website going live, plaintiffs learned of the website's existence. At or around that time, plaintiffs learned that the domain name was owned by "John Smith", of Salveo Limited, located in The Valley, Anguilla. The phone number listed for the company (40.812249340) is in Romania.

143. Plaintiffs, each on their own behalf, have sent cease and desist letters, including take-down notices under the DMCA as appropriate, by email and courier to John Smith at Salveo Limited, demanding that Salveo Limited either shut down the Infringing Website or remove the respective plaintiffs' Magazines from the site. A chart listing the dates of these demand letters and take-down notices is annexed hereto as Exhibit B.

144. The letters put the owners of the Infringing Website on notice that the respective plaintiffs believed that the Website and its owners and operators were directly infringing plaintiffs' copyrights and trademarks, as well as inducing others to do so.

145. Plaintiffs received email responses from Salveo stating "We are currently unavailable." Emails to some of the email addresses associated with the Website were returned as undeliverable. Salveo did not provide a substantive response to any of plaintiffs' demands.

146. At or around the same time, plaintiffs learned that the company providing web hosting for the Infringing Website was defendant Cybernet. Most of the plaintiffs respectively sent cease and desist letters to Cybernet as well as to Dynamic, the DNS host. Although Cybernet responded that it would investigate plaintiffs' "concerns", even after repeated subsequent demands, it remains the primary web host for all of the infringing conduct and has refused to cease its unlawful conduct and/or to aid and assist the others of the defendants in such unlawful conduct.

147. Plaintiffs also discovered that the Domain Name Server ("DNS") for the Infringing Website was being hosted by Dynamic Network Services, Inc., of Manchester, New Hampshire ("Dynamic"). In response to plaintiffs' demands, Dynamic terminated its DNS hosting services for the Infringing Website. The owners of the Infringing Website then switched the site from Dynamic to a new DNS hosting service, Gandi SAS, in Paris.

148. On or around July 25, 2008, plaintiffs learned that the Infringing Website was also being hosted by another web host (in addition to Cybernet), a company known as Secure Hosting, Ltd. in Nassau, Bahamas. Most of the plaintiffs then sent cease and desist letters to Secure Hosting, as well as to the new DNS host, Gandi SAS. In response to plaintiffs' demand,

Secure Hosting in the Bahamas ceased providing web hosting services for the Infringing Website.

149. After Secure Hosting terminated the hosting for the Website, the owners of the Infringing Website again migrated their content to two more web hosts in Hong Kong (New World Telecommunications Limited) and Moscow (Best Hosting). Many of the plaintiffs have sent cease and desist letters and take-down notices to New World Telecommunications Limited and Best Hosting, but neither of these hosts have taken down the Infringing Website, nor blocked access to plaintiffs' copyright-protected content.

150. On August 6, 2008, defendants added an additional web host called "PRQ", which is based in Stockholm, Sweden. Although some of the plaintiffs have sent cease and desist letters and take-down notices to PRQ in Stockholm, PRQ has not taken down the Infringing Website, nor blocked access to plaintiffs' copyright-protected content. A chart showing the dates of plaintiffs' demand letters/take-down notices is annexed hereto as Exhibit B.

Despite Plaintiffs' Protests, Mygazines.com Continues to Promote Itself

151. Mygazines.com's owners and operators and those who control the Infringing Website, continue to promote the Website, to knowingly and willfully violate plaintiffs' rights and to induce others to do so, notwithstanding the above-described notices.

152. A person posting under the name "Darren Budd" has made numerous postings on various pages of the Facebook.com social networking website advertising the Infringing Website, including postings advertising the Site in conjunction with the use of certain of the plaintiffs' Magazine covers that suggests endorsement, license or authorization by the Publishers. Also, a "John Smith" has posted a software application that allows users to "gift" copies of magazines (including all of plaintiffs' magazines) from the Infringing Website to others; defendant Abbas is listed as a "friend" of John Smith on Facebook. Also, defendant

Schwartz has made numerous posts on a social bookmarking website, Digg.com, promoting the Infringing Website.

153. On July 29, 2008, Mygazines.com issued a press release, stating that “The mygazines concept is simple, essentially it allows its members to share magazines in the same manner a doctors' office, law firm, libraries, and hair salons would with their clients every day. mygazines allows users to read, archive and upload content for everyone to read and share within the online magazine community.” It further states that “The mygazines platform was designed for growth, and the possibilities are endless.”

154. On August 5, 2008, Mygazines.com sent a letter (without attribution by an individual author) to *Press Gazette*, a British publication that had previously written about Mygazines.com. The letter, published in full by the *Press Gazette*, described the website as a “free magazine store” and responded to previous press coverage of the Infringing Website by stating that:

The most surprising aspect of almost every article is that they are completely missing our inactive revenue model. We have ways of drawing revenue from a number of sources, some more obvious than others. Mygazines is hardly a pirate website with the interest of breaking the industry. Rather, we offer a paradigm shift that is far more fiscally comprehensive than meets the eye and yet easily transitionable by even the biggest publishers.... The true future of the industry lies in the final stages of our site concept. We can easily transition to the final revenue model quickly with the co-operation of the publishers. We cannot however reveal the full concept at this time as we are saving that discussion for the publishing industry directly...

155. In that letter, defendants stated that “Mygazines sharing model is a solid one with lots of hidden potential revenue and demographics to appease all.” Upon information and belief, defendants already obtain substantial revenue by linking to Amazon.com in connection with each unauthorized copy they display on the Infringing Website.

156. Recently, the Infringing Website has begun encouraging users to refer friends to the Site, by offering a monthly prize of \$1,000, in U.S. dollars, to the user who refers the most friends each month, with a grand prize of \$5,000 for the user who has referred the most friends over a six-month period.

157. Alexa.com, a website that provides statistics for traffic to websites, shows that traffic to the Infringing Website has skyrocketed, moving from a ranking of 8,234,477 to an average ranking during the first week of August 2008 of 23,480 (that is, putting it in the top 25,000 most visited websites in the world).

158. Upon information and belief, defendant Budd has launched a new website, Pornmagazines.com, which is a direct clone of Mygazines.com, except that it offers only “adult” magazines. The domain name for Pornmagazines.com is registered to “Juan Cortez” at the same address as Salveo Limited in The Valley, Anguilla. Upon information and belief, defendant Budd has also registered the following additional domain names: kidmagazines.com, mymagazines.us, mymagazines.org, mymagazines.info, mymagazines.biz, yourmagazines.com, mymagazineslive.com, and mymagazinesonline.com.

The Structure of the Infringing Website

159. Upon information and belief, the web hosting structure of Mygazines.com is such that when a user types www.mygazines.com into their web browser, the page that is displayed is hosted by a host in a foreign jurisdiction. To date these hosts have been located in Hong Kong, Russia, Sweden and the Bahamas. However, upon a deeper analysis of the structure, it appears that only a small portion of the website is stored on these “front-end” servers. The “front-end” server only stores the website’s PHP, JavaScript and flash files. The PHP code on the “front-end” server generates the webpage that is viewed when Mygazines.com is accessed. The flash

and JavaScript files allow the user to “flip” between pages inside a magazine on the website. The “front-end” servers do not store the magazines themselves, but rather generate the magazine content on the web pages by accessing a collection of data files stored on separate “data” servers. Upon information and belief, as of August 15, 2008, Mygazines.com had five “front-end” servers and was rotating between the servers to hide the underlying IP addresses from outside users.

160. These “data” servers contain the actual images of the magazines. The “data” or image servers are owned and operated by Cybernet and Switchworks. Upon information and belief, the Infringing Website uses at least three “data” servers and, like the “front-end” servers, the “data” servers are rotated on a nearly daily basis to avoid detection.

161. Mygazines.com’s very complex hosting structure enables defendants to hide the location of the infringing content from the public. The setup also allows defendants to respond quickly if a “front-end” server is removed by a web host, because the website can be relocated through a small modification, while the majority of the website content remains on the “data” servers. Upon information and belief, the manner in which Mygazines.com is hosted appears to have been designed specifically to obscure or hide the location of the actual servers which contain most of the code, as well as the image files containing the magazine copies themselves.

162. Upon information and belief, Abbas and Schwartz were the primary parties involved in the technical design of the Infringing Website. Both of their names appear within the computer code of the site. Both were among the very first users to sign up as “friends” on the Website, and both have posted multiple “mygazines” on the site. Schwartz in particular has been involved in promotion of the website, and Abbas is connected with the “gift” software application for Mygazines.com available on Facebook.

163. Cybernet and Switchworks, and their owner Ross, who responded personally to one of the plaintiffs' demand and take-down letters (although merely to say he would investigate further), have been on notice for weeks that the Publishers believe that the website infringes their rights under the Copyright and Lanham Acts. However, they have not taken any steps to respond to plaintiffs' demands, but instead continue to profit from hosting the website. Given Ross' public statements about Switchworks acting as an incubator for Internet companies, and his apparent preference for companies that begin with a "My" prefix, upon information and belief, Ross and his companies are substantially involved in the financial and business support for the Infringing Website.

AS AND FOR A FIRST CLAIM FOR RELIEF

**(For Direct Copyright Infringement, 17 U.S.C. § 501,
et seq. Against All defendants)**

164. Plaintiffs repeat and reallege paragraphs 1 through and including 163 set forth hereinabove, as if the same were fully set forth herein.

165. The Magazines contain material that is wholly copyrightable subject matter, alone and in combination, under the laws of the United States, and that material is owned or exclusively licensed to the respective Publisher-plaintiff, which holds copyright interests in each Magazine as a whole, as a collective work under and pursuant to 17 U.S.C. § 404.

166. The Copyright Office has issued valid and subsisting Certificates of Copyright Registration to the respective Publishers for numerous issues of their Magazines, as reflected in Exhibits A hereto. All of these registrations were obtained within three months of publication of the respective magazine issues under 17 U.S.C. § 412(2).

167. For other issues of their Magazines, the Publishers have pending applications in the Copyright Office, as also reflected in Exhibit A hereto.

168. Notwithstanding plaintiffs' ownership of the respective content in their Magazines, defendants have reproduced, distributed, displayed and/or created derivative works from, in whole or in part, the Magazines, without permission, license or authority, in violation of the copyright laws of the United States and the rights of plaintiffs. These acts constitute direct copyright infringement.

169. Defendants had access to each issue of the Magazines which they have uploaded to the Infringing Website, and the copies that have been uploaded are substantially similar, if indeed not identical, to the original Magazine issues.

170. Defendants Budd, Salveo, Cybernet, Switchworks and Ross have not complied with properly constituted take-down notices pursuant to 17 U.S.C. § 512(c)(3)(A), and the Infringing Website does not comply with the requirements of 17 U.S.C. § 512 generally.

171. Defendants knew or should have known of plaintiffs' rights in and to the Magazines, and have willfully and intentionally infringed the plaintiffs' exclusive rights in the Magazines under 17 U.S.C. § 106, in violation of 17 U.S.C. § 501.

172. As a direct and proximate result of the copyright infringement detailed herein, plaintiffs have been and continue to be damaged, in an amount unknown at present and to be determined at trial and defendants have garnered and/or will garner substantial infringing profits in an amount presently unknown, which profits should be disgorged to plaintiffs.

173. In the alternative and at their election, plaintiffs are entitled to seek maximum statutory damages for each separate act of willful infringement by defendants.

174. As a direct and proximate result of the copyright infringement detailed herein, plaintiffs are entitled to preliminary and permanent injunctive relief enjoining and restraining defendants from infringing their copyrights in the Magazines.

175. Plaintiffs have no adequate remedy at law.

AS AND FOR A SECOND CLAIM FOR RELIEF

**(Inducement of Copyright Infringement, 17 U.S.C. § 501,
et seq. Against All Defendants)**

176. Plaintiffs repeat and reallege paragraphs 1 through and including 163 and 165 through and including 171 set forth hereinabove, as if the same were fully set forth herein.

177. Third-party users in the United States who copy copyrighted content from plaintiffs' Magazines and upload it to the Infringing Website, display and distribute that content to others, and/or who create and post derivative works from plaintiffs' Magazines, are direct infringers under United States copyright law.

178. Defendants offer the Infringing Website with the object of promoting its use to infringe plaintiffs' copyrights and, by their clear expression and other affirmative steps, defendants are fostering infringement by users of the Infringing Website. Defendants have actively induced such third-party users to upload copyrighted content to the Infringing Website, to share that content with others, and to create derivative works combining content from multiple publishers. Defendants knew, or had reason to know, that these actions by users, which they have induced, would infringe plaintiffs' copyrights in the Magazines.

179. As a direct and proximate result of the copyright infringement detailed herein, plaintiffs have been and continue to be damaged in an amount unknown at present and to be ascertained at trial and defendants have garnered and/or will garner substantial infringing profits in an amount presently unknown, which profits should be disgorged to plaintiffs.

180. In the alternative and at their election, plaintiffs are entitled to seek maximum statutory damages for each separate act of willful intentional contributory infringement.

181. As a direct and proximate result thereof, plaintiffs are entitled to preliminary and permanent injunctive relief enjoining and restraining defendants from contributing to their infringement of the Magazines by third-party users in the United States.

182. Plaintiffs have no adequate remedy at law.

AS AND FOR A THIRD CLAIM FOR RELIEF

**(For Contributory Copyright Infringement, 17 U.S.C. § 501,
et seq. Against All Defendants)**

183. Plaintiffs repeat and reallege paragraphs 1 through and including 163, 165 through and including 171, and 177 through and including 178 set forth hereinabove, as if the same were fully set forth herein.

184. Third-party users in the United States who copy copyrighted content from plaintiffs' Magazines and upload it to the Infringing Website, display and distribute that content to others, and/or who create and post derivative works from plaintiffs' Magazines, are direct infringers under United States copyright law.

185. Defendants have actively induced, encouraged, enabled and contributed to such third-party users' infringing activities, including the uploading of copyrighted content to the Infringing Website, the sharing of that content with others, and the creation of derivative works combining content from multiple publishers. Defendants knew, or had reason to know, that these actions by users would infringe plaintiffs' copyrights in the Magazines.

186. As a direct and proximate result of the copyright infringement detailed herein, plaintiffs have been and continue to be damaged in an amount unknown at present and to be ascertained at trial and defendants have garnered and/or will garner substantial infringing profits in an amount presently unknown, which profits should be disgorged to plaintiffs.

187. In the alternative and at their election, plaintiffs are entitled to seek maximum statutory damages for each separate act of willful intentional contributory infringement.

188. As a direct and proximate result thereof, plaintiffs are entitled to preliminary and permanent injunctive relief enjoining and restraining defendants from contributing to their infringement of the Magazines by third-party users in the United States.

189. Plaintiffs have no adequate remedy at law.

AS AND FOR A FOURTH CLAIM FOR RELIEF

**(for Vicarious Copyright Liability, 17 U.S.C. § 501,
et seq. Against All Defendants)**

190. Plaintiffs repeat and reallege paragraphs 1 through and including 163 and 165 through and including 171 set forth hereinabove, as if the same were fully set forth herein.

191. Third-party users in the United States who copy copyrighted content from plaintiffs' Magazines and upload it to the Infringing Website, display and distribute that content to others, and/or who create and post derivative works from plaintiffs' Magazines, are direct infringers under United States copyright law.

192. Defendants have the right and ability to supervise and control the infringing acts of third-party users in connection with the Infringing Website.

193. Defendants derive a direct financial interest from the exploitation of plaintiffs' copyrighted Magazines by third-party users in connection with the Infringing Website.

194. As a direct and proximate result of the copyright infringement detailed herein, plaintiffs have been and continue to be damaged in an amount unknown at present and to be ascertained at trial and defendants have garnered and/or will garner substantial infringing profits in an amount presently unknown, which profits should be disgorged to plaintiffs.

195. In the alternative and at their election, plaintiffs are entitled to seek maximum statutory damages for each separate act of willful intentional infringement for which defendants are vicariously liable.

196. As a direct and proximate result of the copyright infringement detailed herein, plaintiffs are entitled to preliminary and permanent injunctive relief enjoining and restraining defendants from permitting their infringement of plaintiffs' Magazines on the Infringing Website by third-party users in the United States.

197. Plaintiffs have no adequate remedy at law.

AS AND FOR A FIFTH CLAIM FOR RELIEF

**(Registered Trademark Infringement, 15 U.S.C. § 1114
et seq. Against All Defendants)**

198. Plaintiffs repeat and reallege paragraphs 1 through and including 163 set forth hereinabove, as if the same were fully set forth herein.

199. Plaintiffs' claim arises under Section 32 of the Lanham Act, 15 U.S.C. § 1114 for registered trademark infringement.

200. As above stated, each of the plaintiffs holds valid and subsisting federal trademark registrations for its respective Marks, each of which are either arbitrary, inherently distinctive or suggestive, and/or are marks in which the respective plaintiff has acquired secondary meaning.

201. Each of the plaintiffs has used its respective Marks continuously and extensively in interstate commerce in the United States for many years.

202. Through plaintiffs' above-described use and their respective advertising, promotional, merchandising and licensing activities over many years, each of the Marks has

acquired secondary meaning such that consumers upon hearing or seeing those Marks, think of a particular origin or source of serial publications sold under that name and those marks.

203. Plaintiffs have established extensive goodwill in the Marks, and they are uniquely associated with the respective plaintiff-owner in the minds of the general public.

204. Defendants have used and continue to use each of the Marks on and/or in connection with their own service, *i.e.*, the Infringing Website; on their counterfeit copies of plaintiffs' Magazines; and in their own "mygazines"; all without license or authorization from plaintiffs.

205. Defendants upload and display counterfeit copies of plaintiffs' Marks on the Infringing Website.

206. Defendants' products and services are targeted to the exact same consumers as plaintiffs target their products and services.

207. Defendants' advertising and promotion of the Infringing Website is intentionally designed to deceive and has deceived customers and prospective customers into believing that the products and services offered by defendants are authorized, licensed or otherwise approved by plaintiffs.

208. As a direct and proximate result of defendants' actions, the public is likely to be confused as to the origin and source of defendants' products and services and/or to believe that defendants are licensed, sponsored or otherwise authorized by plaintiffs to offer those products and services.

209. Defendants' blatant and continuing use of the Marks, despite notification of such infringing conduct, constitutes willful and intentional trademark infringement.

210. Defendants, upon information and belief, have earned or will earn profits as a direct result of their unauthorized use of the Marks.

211. As a direct and proximate result of the willful and wanton conduct of defendants, plaintiffs have been injured and will continue to suffer harm in this District, the State of New York, and throughout the United States in an amount unknown at present and to be determined at trial.

212. Defendants' use in commerce of counterfeit copies of plaintiffs' marks mandates an award of treble damages pursuant to 15 U.S.C. § 1117(b).

213. As a direct and proximate result thereof, plaintiffs are entitled to injunctive relief enjoining and restraining defendants from use of the Marks.

214. Plaintiffs have no adequate remedy at law.

215. The foregoing conduct renders this case exceptional under 15 U.S.C. § 1117(a), entitling plaintiffs to their reasonable attorneys fees.

AS AND FOR A SIXTH CLAIM FOR RELIEF

**(Contributory Trademark Infringement, 15 U.S.C. § 1114
et seq. Against All Defendants)**

216. Plaintiffs repeat and reallege paragraphs 1 through and including 163 set forth hereinabove, as if the same were fully set forth herein.

217. Plaintiffs' claim arises under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

218. As above stated, each of the plaintiffs holds valid and subsisting federal trademark registrations for its respective Marks, each of which are either arbitrary, inherently distinctive or suggestive, and/or are marks in which the respective plaintiff has acquired secondary meaning.

219. Each of the plaintiffs has used its respective Marks continuously and extensively in interstate commerce in the United States for many years.

220. Through plaintiffs' above-described use and their respective advertising, promotional, merchandising and licensing activities over many years, each of the Marks has acquired secondary meaning such that consumers upon hearing or seeing those Marks, think of a particular origin or source of serial publications sold under that name and those marks.

221. Plaintiffs have established extensive goodwill in the Marks, and they are uniquely associated with the respective plaintiff-owner in the minds of the general public.

222. The above-described uses of the Marks by third-party users of the Infringing Website constitute direct infringements of plaintiffs' rights in their respective Marks.

223. Defendants, through the exhortations on the Infringing Website and in the press and through their advertisements and promotion for that Website, have encouraged and induced third-party users to upload counterfeit copies of plaintiffs' Marks, to create "mygazines" bearing the respective Publishers' Marks which do not emanate from that Publisher, and to perform other actions that constitute or cause or are likely to constitute or cause infringement of plaintiffs' rights in their Marks.

224. As a direct and proximate result of the above-described actions, the public is likely (i) to be confused as to the origin and source of the products and services offered under the counterfeit copies of plaintiffs' Marks on the Infringing Website; (ii) to be confused as to the origin and source of the "mygazines"; and/or (iii) to believe that defendants are licensed, sponsored or otherwise authorized by plaintiffs to offer those products and services.

225. Defendants' blatant and continuing inducement and encouragement of their third-party users' unauthorized use of the Marks, despite notification of such infringing conduct, constitutes willful and intentional trademark infringement.

226. Defendants, upon information and belief, have earned or will earn profits as a direct result of their inducement and encouragement of third-party users of their Website to make unauthorized use of the Marks.

227. As a direct and proximate result of the willful and wanton conduct of defendants, plaintiffs have been injured and will continue to suffer harm in this District, the State of New York, and throughout the United States in an amount unknown at present and to be determined at trial.

228. The use in commerce by defendants' third-party users of counterfeit copies of plaintiffs' Marks requires an award of treble damages pursuant to 15 U.S.C. § 1117(b).

229. As a direct and proximate result thereof, plaintiffs are entitled to injunctive relief enjoining and restraining defendants from inducing and encouraging their third-party users' unauthorized use of the Marks.

230. Plaintiffs have no adequate remedy at law.

231. The foregoing conduct renders this case exceptional under 15 U.S.C. § 1117(a), entitling plaintiffs to their reasonable attorneys fees.

AS AND FOR A SEVENTH CLAIM FOR RELIEF

**(Unfair Competition and False Designation of Origin,
15 U.S.C. § 1125(a)(1) Against All Defendants)**

232. Plaintiffs repeat and reallege paragraphs 1 through and including 163 set forth hereinabove, as if the same were fully set forth herein.

233. Plaintiffs' claim arises under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1), for trademark infringement and unfair competition.

234. As above-stated, each of the plaintiffs own all rights in and to the Marks, each of which is either arbitrary, inherently distinctive or suggestive, and/or are marks in which the respective plaintiff has acquired secondary meaning.

235. Each of the plaintiffs has used its respective Marks continuously and extensively in commerce in the United States for many years.

236. Through plaintiffs' above-described use and their respective advertising, promotional, merchandising and licensing activities over many years, each of the Marks has acquired secondary meaning such that consumers, upon hearing or seeing those Marks, think of a particular origin or source of serial publications sold under that name and those marks.

237. Plaintiffs have established extensive goodwill in the Marks, and they are uniquely associated with the respective plaintiff-owner in the minds of the general public.

238. Defendants have used and continue to use each of the Marks on and/or in connection with their own service, *i.e.*, the Infringing Website; on their counterfeit copies of plaintiffs' Magazines; and in their own "mygazines"; all without license or authorization from plaintiffs.

239. Defendants upload and display counterfeit copies of plaintiffs' Marks on the Infringing Website.

240. Defendants' products and services are targeted to the exact same consumers as plaintiffs target their products and services.

241. Defendants' advertising and promotion of the Infringing Website is intentionally designed to deceive and has deceived customers and prospective customers into believing that

the products and services offered by defendants are authorized, licensed or otherwise approved by plaintiffs.

242. As a direct and proximate result of defendants' actions, the public is likely to be confused as to the origin and source of defendants' products and services and/or to believe that defendants are licensed, sponsored or otherwise authorized by plaintiffs to offer those products and services.

243. Defendants' blatant and continuing use of the Marks, despite notifications of such infringing conduct, constitutes willful and intentional trademark infringement and unfair competition.

244. Defendants, upon information and belief, have earned or will earn profits as a direct result of their unauthorized use of the Marks.

245. As a direct and proximate result of the willful and wanton conduct of defendants, plaintiffs have been injured and will continue to suffer harm in this District, the State of New York, and throughout the United States in an amount unknown at present and to be determined at trial.

246. As a direct and proximate result thereof, plaintiffs are entitled to injunctive relief enjoining and restraining defendants from use of the Marks.

247. Plaintiffs have no adequate remedy at law.

248. The foregoing conduct renders this case exceptional under 15 U.S.C. § 1117(a), entitling plaintiffs to enhanced damages and an award of reasonable attorneys fees.

AS AND FOR A EIGHTH CLAIM FOR RELIEF

**(False Advertising, 15 U.S.C. § 1125(a)(2)
Against Defendants Budd and Salveo)**

249. Plaintiffs repeat and reallege paragraphs 1 through and including 163 set forth hereinabove, as if the same were fully set forth herein.

250. Plaintiffs' claim arises under § 43(a)(2) of the Lanham Act, 15 U.S.C. § 1125(a)(2).

251. Defendants have made material, false and misleading descriptions or misrepresentations of fact concerning the Infringing Website, in commercial advertising and promotion for and on the Website itself, by giving the clear but false impression that plaintiffs have licensed or otherwise authorized the owners and operators of the Infringing Website to reproduce, display, and distribute their Magazines and to create and permit others to create and disseminate derivative works under the Publisher's respective trademarks, and that plaintiffs license or endorse the Infringing Website's uses of their trademarks and trade dress.

252. Defendants' conduct is willful, deliberate, intentional and in bad faith.

253. Defendants' false and misleading representations about the Infringing Website and plaintiffs' role therein have deceived or are likely to deceive a substantial segment of the intended audience and to cause plaintiffs and each of them actual injury.

254. The Infringing Website and the advertising and promotion therefor are being displayed and distributed in interstate commerce.

255. As a direct and proximate result of defendants' false and misleading representations, plaintiffs have been damaged in an amount unknown at present and to be proved at trial.

256. Plaintiffs are entitled to treble damages based on the bad faith and willful conduct of defendants.

257. Plaintiffs have suffered and, unless defendants are enjoined, will likely continue to suffer, irreparable injury by reason of the false and misleading claims made by defendants about the Infringing Website and plaintiffs' role therein.

258. Plaintiffs have no adequate remedy at law.

259. The foregoing conduct renders this case exceptional under 15 U.S.C. § 1117(a), entitling plaintiffs to their reasonable attorneys fees.

AS AND FOR A NINTH CLAIM FOR RELIEF

**(Trademark Dilution, 15 U.S.C. § 1125(c) Against
Defendants Budd, Salveo, Abbas and Schwartz)**

260. Plaintiffs repeat and reallege paragraphs 1 through and including 163 set forth hereinabove, as if the same were fully set forth herein.

261. Plaintiffs' claim arises under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

262. As set forth herein above, many of the Marks are "famous" marks as defined by 15 U.S.C. § 1125(c)(1)(a) through (h).

263. Defendants' above-described infringing uses of the Marks began after the Marks had become famous.

264. Upon information and belief, defendants' above-described infringing uses, including but not limited to conjoining defendants' "MYGAZINES" mark with each of plaintiffs' famous Marks and their own creation of "mygazines" conjoining the famous marks of plaintiffs with the marks of others, cause and/or are likely to cause dilution of the famous Marks by blurring the distinctive nature of each of the famous Marks.

265. Upon information and belief, defendants have earned, or will earn, profits as a direct result of their unauthorized use of the famous Marks.

266. As a direct result of the willful and wanton conduct of defendants, plaintiffs have been injured and will continue to suffer damages in this District, the State of New York and throughout the United States in an amount unknown at present and to be determined at trial.

267. As a direct and proximate result thereof, plaintiffs are entitled to injunctive relief enjoining and restraining defendants from use of the famous Marks.

268. Plaintiffs have no adequate remedy at law.

269. The foregoing conduct renders this case exceptional under 15 U.S.C. § 1117(a), entitling plaintiffs to their reasonable attorneys fees.

AS AND FOR A TENTH CLAIM FOR RELIEF

**(Contributory Trademark Dilution,
15 U.S.C. § 1125(c) Against All Defendants)**

270. Plaintiffs repeat and reallege paragraphs 1 through and including 163 set forth hereinabove, as if the same were fully set forth herein.

271. Plaintiffs' claim arises under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

272. As set forth above, many of the Marks are "famous" marks as defined by 15 U.S.C. § 1125(c)(1)(a) through (h).

273. The above-described uses of the Marks by third-party users of the Infringing Website, including but not limited to the conjunction of Plaintiffs' famous Marks with other trademarks in the "mygazines", cause and/or are likely to cause dilution of plaintiffs' Marks by blurring and/or are likely to blur, the distinctive nature of the famous Marks.

274. Such third-party use began after the Marks had become famous.

275. Defendants, through the exhortations on the Infringing Website and in the press and through their advertisements and promotion for that Website, have encouraged and induced third-party users to create “mygazines” and perform other actions that constitute or cause or are likely to constitute or cause the dilution of plaintiffs’ famous Marks.

276. Upon information and belief, defendants have earned, or will earn, profits as a direct result of third-party users’ unauthorized use of the famous Marks.

277. As a direct result of the willful and wanton conduct of defendants, plaintiffs have been injured and will continue to suffer damages in this District, the State of New York and throughout the United States in an amount unknown at present and to be determined at trial.

278. As a direct and proximate result thereof, plaintiffs are entitled to injunctive relief enjoining and restraining defendants from use of the Marks.

279. Plaintiffs have no adequate remedy at law.

280. The foregoing conduct renders this case exceptional under 15 U.S.C. § 1117(a), entitling plaintiffs to their reasonable attorneys fees.

AS AND FOR A ELEVENTH CLAIM FOR RELIEF

(Trademark Dilution, N.Y. Gen. Bus. Law § 360-l)

281. Plaintiffs repeat and reallege paragraphs 1 through and including 163 set forth hereinabove, as if the same were fully set forth herein.

282. Plaintiffs’ claim arises under N.Y. Gen. Bus. Law § 360-l.

283. As set forth hereinabove, the Marks are distinctive.

284. Defendants’ above-described infringing uses of the Marks were intentional predatory acts which began after each of the Marks had become distinctive.

285. Defendants’ above-described infringing uses cause and/or are likely to cause actual dilution of the distinctive Marks by blurring.

286. As a direct and proximate result thereof, plaintiffs are entitled to injunctive relief enjoining and restraining defendants from use of the Marks .

287. Plaintiffs have no adequate remedy at law.

REQUEST FOR RELIEF

WHEREFORE, plaintiffs request judgment against defendants, as follows:

A. For a preliminary and permanent injunction prohibiting defendants, their officers, directors, agents, servants employees, licensees and assigns, and all persons, forms or corporations acting under their direction or pursuant to their control, or in active concert or participation with them from:

(1) reproducing, uploading, posting, displaying, distributing or creating derivative works from plaintiffs' copyrighted magazine content in the United States;

(2) inducing, encouraging, causing, facilitating, materially contributing to, or receiving a direct financial benefit from, the reproduction, uploading, posting, display, distribution or creation of derivative works from plaintiffs' copyrighted magazine content by others in the United States; and

(3) using any trademark or trade dress that is likely to be confusingly similar to, or dilutive of, any of plaintiffs' trademarks or service marks or trade dress, in a way that is likely to have an impact on interstate commerce; and

(4) inducing, encouraging, causing, facilitating, materially contributing to, or receiving a direct financial benefit from, the use, reproduction, posting, and display of any trademark or trade dress that is likely to be confusingly similar to, or dilutive of, any of plaintiffs' trademarks or service marks or trade dress, in a way that is likely to have an impact on interstate commerce, by others in the United States.

B. For an award of actual damages plaintiffs have sustained as a result of defendants' acts of copyright and trademark infringement, unfair competition and dilution, and false advertising, pursuant to 17 U.S.C. § 503, 15 U.S.C. § 1117(a), and the common law, and a trebling of such damages pursuant to 15 U.S.C. § 1117(b);

C. For an order requiring defendants to account for and pay over to plaintiff all gain, profits and advantages derived by defendants from its acts of infringement, unfair competition, dilution and false advertising, pursuant to 17 U.S.C. § 504, 15 U.S.C. § 1117(a) and the common law;

D. At plaintiffs' election, for an award of statutory damages pursuant to 17 U.S.C. § 504 in the amount of \$150,000 for each willful violation thereof;

E. For an order awarding plaintiffs prevailing party attorneys' fees under 17 U.S.C. § 505, together with costs and disbursements in this action;

F. For an order awarding plaintiffs their attorneys fees under 15 U.S.C. § 1117(a);


G. For prejudgment interest according to law; and

H. For such other relief as the Court may deem just and proper.

Dated: New York, New York
August 19, 2008

Respectfully Submitted,

DAVIS WRIGHT TREMAINE LLP

By: 

Robert D. Balin (RDB 5847)

Lacy H. Koonce, III (LK 8784)

Deborah A. Adler (DA 0909)

1633 Broadway
New York, New York 10019

Tel: (212) 489-8230

Fax: (212) 489-8340

Attorneys for Plaintiffs

EXHIBIT A

Time Inc.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Business 2.0	April 2007			2615623
Business 2.0	May 2007			
Coastal Living	June 2008			2,233,877
Coastal Living	July 2008			
Cooking Light	June 2008			1,586,703
Cooking Light	July 2008			2,583,662
Cooking Light	August 2008			
Entertainment Weekly	June 20, 2008	TX 6-648-136		1,678,451
Entertainment Weekly	June 27, 2008	TX 6-648-136		
Entertainment Weekly	July 11, 2008	TX 6-648-136		
Entertainment Weekly	July 18, 2008	TX 6-648-136		
Entertainment Weekly	July 25, 2008	TX 6-648-136		
Entertainment Weekly	August 1, 2008	TX 6-648-136		
Entertainment Weekly	August 8, 2008	TX 6-648-136		
Entertainment Weekly	August 15, 2008	TX 6-648-136		
Entertainment Weekly	August 22, 2008			
Essence	July 2008	TX 6-648-139		1,131,744
Essence	August 2008	TX 6-857-547		
Essence	September 2008			
Fortune	July 7, 2008	TX 6-648-134		634,608
				973,437
				1,711,702
Fortune 500	May 5, 2008			1,368,907
Fortune Small Business	May 2007			3,397,563
				2,422,253
Fortune Special Investors Issue	2008			
Golf	June 2008	TX 6-648-132		2,752,640
Golf	August 2008	TX 6-857-563		2,349,798
Golf	September 2008			1,521,755
				2,382,518
Health	June 2008			1,961,337
Health	July 2008			
In Style	July 2008	TX 6-648-137		1,829,389
In Style	August 2008	TX 6-857-567		3,194,185
				3,398,244
				1,851,469

Time Inc.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Money	June 2008	TX 6-648-141		3,060,419
Money	August 2008			1,001,798
People	May 26, 2008	TX 6-648-142		2,697,635
People	June 2, 2008	TX 6-648-142		
People	June 16, 2008	TX 6-648-130		
People	June 23, 2008	TX 6-648-130		
People	June 30, 2008	TX 6-648-130		
People	July 7, 2008	TX 6-648-130		
People	July 14, 2008	TX 6-648-130		
People	July 21, 2008	TX 6-648-130		
People	July 28, 2008	TX 6-648-130		
People	August 4, 2008	TX 6-648-130		
People	August 11, 2008	TX 6-648-130		
People	August 18, 2008	TX 6-648-130		
People	August 25, 2008			
People Child Stars	Summer 2008			
People en Espanol	July 2008	TX 6-648-131		2,182,518
People en Espanol	August 2008	TX 6-648-131		
People en Espanol	September 2008			
People Style Watch	June 2008	TX 6-857-545		2,725,720
Real Simple	June 2008	TX 6-648-138		2,470,211
Real Simple	July 2008	TX 6-648-138		
Real Simple	August 2008	TX 6-857-840		
Southern Accents	July 2008			1,103,041
Southern Living	June 2008			1,322,151
Southern Living	July 2008			847,643
Southern Living	August 2008			
Sports Illustrated	May 12, 2008	TX 6-648-145		754,203
Sports Illustrated	May 19, 2008	TX 6-648-145		
Sports Illustrated	June 2, 2008	TX 6-648-145		
Sports Illustrated	June 16, 2008	TX 6-648-145		
Sports Illustrated	June 23, 2008	TX 6-648-133		
Sports Illustrated	June 30, 2008	TX 6-648-133		
Sports Illustrated	July 7, 2008	TX 6-648-133		
Sports Illustrated	July 14, 2008	TX 6-648-133		
Sports Illustrated	July 28, 2008	TX 6-648-133		

Time Inc.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Sports Illustrated	August 4, 2008	TX 6-648-133		
Sports Illustrated	August 11, 2008			
Sports Illustrated	August 18, 2008			
Sports Illustrated For Kids	June 2008	TX 6-857-684		1,863,715
Sports Illustrated For Kids	July 2008	TX 6-857-559		1,578,963
Sports Illustrated For Kids	August 2008	TX 6-857-562		3422999
Sports Illustrated For Kids	September 2008			3423012
This Old House	July 2008	TX 6-648-140		1,992,003
This Old House	September 2008			2,238,871
Time	May 12, 2008	TX 6-648-143		3,223,154
Time	May 19, 2008	TX 6-648-143		810455
Time	June 2, 2008	TX 6-648-143		629122
Time	June 9, 2008	TX 6-648-143		1,058,390
Time	June 16, 2008	TX 6-648-143		1,106,087
Time	June 23, 2008	TX 6-648-135		
Time	July 7, 2008	TX 6-648-135		
Time	July 14, 2008	TX 6-648-135		
Time	July 21, 2008	TX 6-648-135		
Time	July 28, 2008	TX 6-648-135		
Time	August 4, 2008	TX 6-648-135		
Time	August 11, 2008	TX 6-648-135		
Time	August 18, 2008			

Hearst

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Cosmogirl!	June/July 2008	TX 6-648-112		2,527,954
Cosmogirl!	August 2008	TX 6-648-112		
Cosmogirl!	September 2008		Application Submitted	
Cosmopolitan	June 2008	TX 6-648-103		630,028
Cosmopolitan	August 2008	TX 6-648-103		
Cosmopolitan	September 2008			
Cosmopolitan Style and Beauty Issue	Summer 2008	TX 6-648-103		
Country Living	June 2008	TX 6-648-114		2,442,089
Country Living	July 2008	TX 6-648-114		
Country Living	August 2008	TX 6-648-114		
Country Living	September 2008		August 1, 2008	
Esquire	June 2008	TX 6-648-113		313,768
Esquire	July 2008	TX 6-648-113		
Esquire	August 2008	TX 6-648-113		
Esquire	September 2008		August 11, 2008	
Good Housekeeping	June 2008	TX 6-648-106		46,028
Good Housekeeping	August 2008	TX 6-648-106		
Good Housekeeping	September 2008			
Harper's Bazaar	September 2007	TX 6-856-808		274,802
Harper's Bazaar	June 2008	TX 6-648-104		
Harper's Bazaar	July 2008	TX 6-648-104		
Harper's Bazaar	August 2008	TX 6-648-104		
Harper's Bazaar	September 2008			
House Beautiful	August 2007	TX 6-594-569		273,427
House Beautiful	July 2008	TX 6-648-105		
House Beautiful	August 2008	TX 6-648-105		
Marie Claire	May 2008	TX 6-648-109		2,679,247
Marie Claire	June 2008	TX 6-648-109		
Marie Claire	August 2008	TX 6-648-109		
Marie Claire	September 2008			
O The Oprah Magazine	June 2008	TX 6-648-116		2,691,371
O The Oprah Magazine	July 2008	TX 6-648-116		
O The Oprah Magazine	August 2008	TX 6-648-116		
O The Oprah Magazine	September 2008		August 14, 2008	
Popular Mechanics	June 2008	TX 6-648-115		101,201
Popular Mechanics	August 2008	TX 6-648-115		
Popular Mechanics	September 2008		August 13, 2008	

Hearst

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Redbook	June 2008	TX 6-648-110		968,669
Redbook	July 2008	TX 6-648-110		
Redbook	August 2008	TX 6-648-110		
Seventeen	June 2008	TX 6-648-107		411,294
Seventeen	August 2008	TX 6-648-107		
Seventeen	September 2008			
SmartMoney	June 2008	TX 6-648-080		1,730,322
SmartMoney	July 2008	TX 6-648-080		
SmartMoney	August 2008	TX 6-648-080		
Town & Country	June 2008	TX 6-648-108		188,718
Town & Country	August 2008	TX 6-648-108		
Town & Country	September 2008			
Veranda	August 2008	TX 6-648-111		
Veranda	September 2008			

**Advance Magazine Publishers Inc.
d/b/a Conde Nast**

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Allure	June 2008		Application Submitted	1378072
Allure	July 2008		Application Submitted	1751874
Allure	August 2008		Application Submitted	
Architectural Digest	January 2007	TX 6-502-788		916331
Architectural Digest	February 2007	TX 6-513-535		2471378
Architectural Digest	March 2007	TX 6-549-578		
Architectural Digest	April 2007	TX 6-559-017		
Architectural Digest	May 2007	TX 6-593-361		
Architectural Digest	June 2007	TX 6-595-375		
Architectural Digest	September 2007	TX 6-825-462		
Architectural Digest	October 2007		Application Submitted	
Architectural Digest	November 2007		Application Submitted	
Architectural Digest	May 2008		Application Submitted	
Architectural Digest	July 2008		Application Submitted	
Architectural Digest	August 2008		Application Submitted	
Architectural Digest	September 2008		Application Submitted	
Bon Appetit	June 2008		Application Submitted	653791
Bon Appetit	July 2008		Application Submitted	3480492
Bon Appetit	August 2008		Application Submitted	
Bon Appetit	September 2008			
Brides	July 2008		Application Submitted	340115
Brides	September 2008			
Conde Nast Traveler	July 2008		Application Submitted	1568296
Conde Nast Traveler	August 2008		Application Submitted	
Details	January 2006		Application Submitted	2728880
Details	June 2008		Application Submitted	2695667
Details	August 2008		Application Submitted	
Details	September 2008		Application Submitted	
Domino	June 2008		Application Submitted	3014161
Domino	August 2008		Application Submitted	
Glamour	May 2008		Application Submitted	407439
Glamour	June 2008		Application Submitted	503282
Glamour	August 2008		Application Submitted	
Glamour	September 2008		Application Submitted	
Gourmet	July 2008		Application Submitted	384160
Gourmet	August 2008		Application Submitted	

**Advance Magazine Publishers Inc.
d/b/a Conde Nast**

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
House & Garden	June 2008			
Lucky	June 2008		Application Submitted	2469245
Lucky	August 2008		Application Submitted	
Lucky	September 2008			
Modern Bride	June 2008		Application Submitted	529969
Modern Bride	August 2008		Application Submitted	
Self	June 2008		Application Submitted	1120502
Self	July 2008		Application Submitted	1721094
Self	August 2008		Application Submitted	1663404
Teen Vogue	June 2008		Application Submitted	2568246
Teen Vogue	August 2008		Application Submitted	
Teen Vogue	September 2008			
The New Yorker	April 28, 2008		Application Submitted	2746797
The New Yorker	May 5, 2008		Application Submitted	844606
The New Yorker	May 12, 2008		Application Submitted	
The New Yorker	May 19, 2008		Application Submitted	
The New Yorker	May 26, 2008		Application Submitted	
The New Yorker	June 2, 2008		Application Submitted	
The New Yorker	June 9, 2008		Application Submitted	
The New Yorker	June 23, 2008		Application Submitted	
The New Yorker	June 30, 2008		Application Submitted	
The New Yorker	July 7, 2008		Application Submitted	
The New Yorker	July 14, 2008		Application Submitted	
The New Yorker	July 21, 2008		Application Submitted	
The New Yorker	July 28, 2008		Application Submitted	
The New Yorker	August 4, 2008		Application Submitted	
The New Yorker	August 11, 2008		Application Submitted	
Vanity Fair	June 2008		Application Submitted	1229720
Vanity Fair	July 2008		Application Submitted	
Vanity Fair	August 2008		Application Submitted	
Vanity Fair	September 2008			
Vogue	June 2008		Application Submitted	125542
Vogue	July 2008		Application Submitted	504006
Vogue	August 2008		Application Submitted	1336659
				69530
W	July 2008			1882171

**Advance Magazine Publishers Inc.
d/b/a Conde Nast**

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
W	August 2008		Application Submitted	
Wired	October 2004		Application Submitted	1853612
Wired	January 2006	TX 6-341-378		2150960
Wired	January 2008		Application Submitted	
Wired	February 2008		Application Submitted	
Wired	March 2008		Application Submitted	
Wired	April 2008		Application Submitted	
Wired	May 2008		Application Submitted	
Wired	June 2008		Application Submitted	
Wired	July 2008		Application Submitted	
Wired	August 2008		Application Submitted	
Wired	September 2008		Application Submitted	
Wired Geekpedia	2008		Application Submitted	

American Media, Inc.

Publication Name	Publication Date	Copyright Registration	Trademark Registration
Country Weekly	May 19, 2008		2372499
Country Weekly	June 2, 2008	TX 6-648-097	
Country Weekly	June 16, 2008	TX 6-648-097	
Country Weekly	June 30, 2008	TX 6-648-097	
Country Weekly	July 14, 2008	TX 6-648-097	
Country Weekly	July 28, 2008	TX 6-648-097	
Country Weekly	August 11, 2008	TX 6-648-097	
Country Weekly	August 25, 2008		
Fit Pregnancy	June 1, 2008		
Fit Pregnancy	August 1, 2008		
Flex	June 2008	TX 6-648-095	1,340,659
Flex	August 2008	TX 6-648-095	
Flex	September 2008	TX 6-648-095	
Globe	May 12, 2008		1,639,082
Globe	May 19, 2008		
Globe	May 26, 2008		
Globe	June 23, 2008	TX 6-648-092	
Globe	June 30, 2008	TX 6-648-092	
Globe	July 7, 2008	TX 6-648-092	
Globe	July 14, 2008	TX 6-648-092	
Globe	July 21, 2008	TX 6-648-092	
Globe	July 28, 2008	TX 6-648-092	
Globe	August 4, 2008	TX 6-648-092	
Globe	August 11, 2008		
Globe	August 18, 2008		
Globe	August 25, 2008		
Men's Fitness	June/July 2008	TX 6-648-094	1,956,592
Men's Fitness	August 2008	TX 6-648-094	
MUSCLE & FITNESS	July 2008	TX 6-648-098	2,692,744
MUSCLE & FITNESS	August 2008	TX 6-648-098	2,686,042
MUSCLE & FITNESS	September 2008	TX 6-648-098	
National Enquirer	May 19, 2008		736,824
National Enquirer	June 9, 2008	TX 6-648-099	3,087,754
National Enquirer	June 16, 2008	TX 6-648-099	
National Enquirer	June 23, 2008	TX 6-648-099	
National Enquirer	June 30, 2008	TX 6-648-099	
National Enquirer	July 6, 2008		
National Enquirer	July 7, 2008	TX 6-648-099	

American Media, Inc.

Publication Name	Publication Date	Copyright Registration	Trademark Registration
National Enquirer	July 14, 2008	TX 6-648-099	
National Enquirer	July 21, 2008	TX 6-648-099	
National Enquirer	July 28, 2008	TX 6-648-099	
National Enquirer	August 4, 2008	TX 6-648-099	
National Enquirer	August 11, 2008	TX 6-648-099	
National Enquirer	August 18, 2008		
National Enquirer	August 25, 2008		
Shape	April 2008		1,525,562
Shape	August 2008	TX 6-648-096	1,498,564
Shape	September 2008	TX 6-648-096	
Star	May 19, 2008		1,224,966
Star	May 26, 2008	TX 6-648-093	
Star	June 2, 2008	TX 6-648-093	
Star	June 9, 2008	TX 6-648-093	
Star	June 16, 2008	TX 6-648-093	
Star	June 23, 2008	TX 6-648-093	
Star	June 30, 2008	TX 6-648-093	
Star	July 7, 2008	TX 6-648-093	
Star	July 14, 2008	TX 6-648-093	
Star	July 21, 2008	TX 6-648-093	
Star	July 28, 2008	TX 6-648-093	
Star	August 4, 2008	TX 6-648-093	
Star	August 11, 2008		
Star	August 18, 2008		
Star	August 25, 2008		

Hachette Filipacchi Media U.S., Inc.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Boating	July 2008	TX 6-648-085		910,927
Boating	August 2008	TX 6-648-085		
Boating	September 2008			
Car and Driver	July 2008	TX 6-648-088		904,765
Car and Driver	August 2008	TX 6-648-088		
Car and Driver	September 2008			
Elle	July 2008	TX 6-648-089		758,137
Elle Decor	January 2006	TX 6-333-154		1,732,988
Elle Decor	March 2006	TX 6-322-911		
Elle Decor	July 2008	TX 6-349-861		
Elle Decor	August 2008	TX 6-349-861		
Elle Decor	September 2008			
Elle Girl	February 2006	TX 6-349-861		2,737,728
Elle Girl	March 2006	TX 6-349-861		
Flying	August 2008	TX 6-648-090		521,411
Flying	September 2008			
Home	June 2008	TX 6-648-083		160,374
Home	July 2008	TX 6-648-083		
Metropolitan Home	June 2008	TX 6-648-087		1,235,238
Metropolitan Home	July/August 2008	TX 6-648-087		
Metropolitan Home	September 2008			
Popular Photography	June 2008	TX 6-648-086		511,952
Popular Photography	July 2008	TX 6-648-086		
Popular Photography	August 2008	TX 6-648-086		
Popular Photography	September 2008			
Road & Track	June 2008	TX 6-648-082		854,203
Road & Track	August 2008	TX 6-648-082		
Road & Track	September 2008			
Sound & Vision	July 2008	TX 6-648-084		2,428,754
Sound & Vision	September 2008			
Sound & Vision HDTV Guide	2005			

The McGraw-Hill Companies, Inc.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Architectural Record	January 2006			2,218,444
Architectural Record	February 2006			
Architectural Record	March 2006			
Architectural Record	May 2006			
Architectural Record	September 2007			
Architectural Record	February 2008			
Architectural Record	April 2008			
Architectural Record	July 2008	TX 6-646-794		
BusinessWeek	December 11, 2006			1,746,837
BusinessWeek	August 13, 2007			
BusinessWeek	October 8, 2007			
BusinessWeek	October 29, 2007			
BusinessWeek	November 12, 2007			
BusinessWeek	December 10, 2007			
BusinessWeek	December 17, 2007			
BusinessWeek	December 24, 2007			
BusinessWeek	January 14, 2008			
BusinessWeek	January 21, 2008			
BusinessWeek	May 19, 2008	TX 6-646-795		
BusinessWeek	May 26, 2008	TX 6-646-795		
BusinessWeek	June 2, 2008	TX 6-646-795		
BusinessWeek	June 9, 2008	TX 6-646-795		
BusinessWeek	June 16, 2008	TX 6-646-795		
BusinessWeek	June 23, 2008	TX 6-646-795		
BusinessWeek	June 30, 2008	TX 6-646-795		
BusinessWeek	July 7, 2008	TX 6-646-795		
BusinessWeek	July 14, 2008	TX 6-646-795		
BusinessWeek	July 28, 2008	TX 6-646-795		
BusinessWeek	August 4, 2008	TX 6-646-795		
BusinessWeek	August 11, 2008	TX 6-646-795		
BusinessWeek	August 18, 2008	TX 6-646-795		

Newsweek, Inc. and Budget Travel

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Arthur Frommer's Budget Travel	July 2008	TX 6-856-660		2890859
Newsweek	May 5, 2008	TX 6-648-079		1413355
Newsweek	May 12, 2008	TX 6-648-079		
Newsweek	June 16, 2008	TX 6-648-079		
Newsweek	June 23, 2008	TX 6-648-079		
Newsweek	June 30, 2008	TX 6-648-079		
Newsweek	July 7, 2008	TX 6-648-078		
Newsweek	July 21, 2008	TX 6-648-078		
Newsweek	July 28, 2008	TX 6-648-078		
Newsweek	August 4, 2008	TX 6-648-078		
Newsweek	August 11, 2008	TX 6-648-078		

Source Interlink Companies, Inc.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
4 WHEEL & OFF ROAD	July 2008		August 19, 2008	2558789
4 WHEEL & OFF ROAD	September 2008		August 19, 2008	
4 WHEEL & OFF ROAD	October 2008		August 19, 2008	
ATV RIDER	July 2008		August 19, 2008	2644827
ATV RIDER	August 2008		August 19, 2008	
ATV RIDER	September 2008		August 19, 2008	
AUTOMOBILE	June 2008	TX 6-648-102		2604737
AUTOMOBILE	July 2008	TX 6-648-102		
AUTOMOBILE	August 2008	TX 6-648-102		
AUTOMOBILE	September 2008	TX 6-648-102		
CAR CRAFT	September 2008		August 19, 2008	
CAR CRAFT	October 2008			
DIRT RIDER	July 2008		August 19, 2008	2688174
DIRT RIDER	August 2008		August 19, 2008	
DIRT RIDER	September 2008			
FOUR WHEELER	June 2008		August 19, 2008	1403984
FOUR WHEELER	August 2008		August 19, 2008	
FOUR WHEELER	September 2008		August 19, 2008	
HOT ROD	August 2008		August 19, 2008	2372437
HOT ROD	September 2008		August 19, 2008	
MOTOR TREND	June 2008	TX 6-648-101		2367705
MOTOR TREND	July 2008	TX 6-648-101		
MOTOR TREND	August 2008	TX 6-648-101		
MOTOR TREND	September 2008	TX 6-648-101		
MOTORCYCLIST	July 2008		August 19, 2008	2501973
MOTORCYCLIST	August 2008		August 19, 2008	
MOTORCYCLIST	September 2008			
MOTORCYCLIST RETRO	Spring 2008		August 19, 2008	
POWER & MOTOR YACHT	July 2008		August 19, 2008	1650102
POWER & MOTOR YACHT	August 2008		August 19, 2008	2133647
READERS RIGS	Summer 2008		August 19, 2008	
SOAP OPERA DIGEST	May 13, 2008		Application Submitted	1491072
SOAP OPERA DIGEST	May 20, 2008		Application Submitted	
SOAP OPERA DIGEST	May 27, 2008		Application Submitted	
SOAP OPERA DIGEST	June 10, 2008		Application Submitted	
SOAP OPERA DIGEST	June 17, 2008		Application Submitted	

Source Interlink Companies, Inc.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
SOAP OPERA DIGEST	June 24, 2008		Application Submitted	
SOAP OPERA DIGEST	July 1, 2008		Application Submitted	
SOAP OPERA DIGEST	July 8, 2008		August 19, 2008	
SOAP OPERA DIGEST	July 15, 2008		August 19, 2008	
SOAP OPERA DIGEST	July 22, 2008		August 19, 2008	
SOAP OPERA DIGEST	July 29, 2008		August 19, 2008	
SOAP OPERA DIGEST	August 5, 2008		August 19, 2008	
SOAP OPERA DIGEST	August 12, 2008		August 19, 2008	
SOAP OPERA WEEKLY	May 13, 2008		August 19, 2008	2398877
SOAP OPERA WEEKLY	May 20, 2008		August 19, 2008	
SOAP OPERA WEEKLY	May 27, 2008		August 19, 2008	
SOAP OPERA WEEKLY	June 3, 2008		August 19, 2008	
SOAP OPERA WEEKLY	June 17, 2008		August 19, 2008	
SOAP OPERA WEEKLY	June 24, 2008		August 19, 2008	
SOAP OPERA WEEKLY	July 1, 2008		August 19, 2008	
SOAP OPERA WEEKLY	July 8, 2008		August 19, 2008	
SOAP OPERA WEEKLY	July 15, 2008		August 19, 2008	
SOAP OPERA WEEKLY	July 22, 2008		August 19, 2008	
SOAP OPERA WEEKLY	July 29, 2008		August 19, 2008	
SOAP OPERA WEEKLY	August 5, 2008		August 19, 2008	
SOAP OPERA WEEKLY	August 12, 2008		August 19, 2008	
SOAP OPERA WEEKLY	August 19, 2008		August 19, 2008	
SOAP OPERA WEEKLY	August 26, 2008		August 19, 2008	

**Reed Business Information, a division of Reed Elsevier Inc.,
Variety, Inc.,
Reed Elsevier Properties Inc.**

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Interior Design	June 2005	TX 6-202-571	July 15, 2005	1911286
Interior Design	May 2008		Application Submitted	
Interior Design	June 2008		Application Submitted	
Interior Design	September 2008			
Variety	June 30, 2008	TX 6-648-129		1350618
Variety	July 21, 2008	TX 6-648-129		

Bonnier Corp.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
9Frames (Transworld Skateboarding special issue)	June 13, 2008			
Babytalk	Spring 2008			2214865 3145207 661932
Cruising World	July 2008			1039649 2108538
Motor Boating	August 2008			2696153 2686199
Outdoor Life	May 2008	TX 6-648-128		1002765
Outdoor Life	June 2008	TX 6-648-128		2173508
Parenting	June 2008	TX 6-648-126		1578948
Parenting	August 2008	TX 6-648-126		2026010
Parenting	September 2008			
Popular Science	May 2008			636827
Popular Science	June 2008	TX 6-648-127		2779282
Popular Science	August 2008	TX 6-648-127		
Popular Science	September 2008			
Saveur	January 2006			
Saveur	March 2006			
Saveur	July 2008			
Saveur	September 2008			
Transworld Skateboarding	May 2008			2382801
Transworld Skateboarding	August 2008			
Transworld Skateboarding	September 2008			
Transworld Snowboarding	September 2008			
Transworld Surf	September 2008			2316139 2368278 2326200
Yachting	July 2008			
Yachting	August 2008			

Ziff Davis Publishing Holdings Inc.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Electronic Gaming Monthly	June 2008		August 13, 2008	2597416
Electronic Gaming Monthly	July 2008		August 13, 2008	
Electronic Gaming Monthly	August 2008		August 13, 2008	
Electronic Gaming Monthly	September 2008		August 13, 2008	
PC Magazine	February 2008		August 13, 2008	2590967
PC Magazine	July 2008		August 13, 2008	1515365
PC Magazine	August 2008		August 13, 2008	1894061
PC Magazine	September 2008		August 13, 2008	

Forbes

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Forbes	November 12, 2007		May 2008	1,141,299
Forbes	May 5, 2008		May 2008	
Forbes	May 19, 2008		May 2008	
Forbes	June 16, 2008		May 2008	
Forbes	June 30, 2008		May 2008	
Forbes	July 21, 2008		May 2008	
Forbes	August 11, 2008		May 2008	
Forbes Entertainment All Stars	Summer 2008			
Forbes Investment Guide	June 2, 2008			

Reader's Digest Association, Inc.

Publication Name	Publication Date	Copyright Registration	Copyright Application	Trademark Registration
Birds & Blooms	June 2008		May 20, 2008	1964726
Birds & Blooms	August 2008		July 17, 2008	
Country Woman	July 2008		May 20, 2008	2270614
Reader's Digest Large Print	July 2008	TX 6-648-100		2929038
Reader's Digest Large Print	August 2008	TX 6-648-100		761376
Selecciones	May 2008		July 29, 2008	1585645
Taste of Home	June 2007	TX 6-589-815		2002133
Taste of Home	August 2007		August 20, 2007	
Taste of Home	October 2007		November 15, 2007	
Taste of Home	December 2007		December 17, 2007	
Taste of Home	April 2008		March 17, 2008	
Taste of Home	July 2008		June 5, 2008	
Taste of Home	September 2008		July 28, 2008	
The Family Handyman	June 2008	TX 6-648-081		1830346
The Family Handyman	July/August 2008	TX 6-648-081		2427051
The Family Handyman	September 2008			

EXHIBIT B

DMCA/Cease and Desist
Correspondence Table

Plaintiff Name	Date of DMCA/Cease and Desist letters sent to:		
	Salvco	Cybernet	Switchworks
American Media, Inc.	July 24, 2008	July 24, 2008 August 6, 2008	
Bonnier Corporation	August 6, 2008	August 6, 2008	
Condé Nast Publications	July 23, 2008	July 24, 2008 August 6, 2008	
Hachette Filipacchi Media U.S., Inc.	July 24, 2008	July 24, 2008 August 6, 2008	August 4, 2008
Hearst Corporation	July 24, 2008	July 23, 2008 August 6, 2008	August 1, 2008 August 4, 2008
The McGraw-Hill Cos., Inc.	July 25, 2008	July 25, 2008 August 6, 2008	August 1, 2008
Newsweek, Inc.	August 1, 2008	August 6, 2008	August 4, 2008
Reader's Digest Association, Inc.	August 1, 2008	August 8, 2008	
Reed Business Information	July 24, 2008	July 24, 2008 August 6, 2008	
Source Interlink magazines, LLC	July 23, 2008	July 23, 2008 August 6, 2008	
Time, Inc.	July 23, 2008	July 24, 2008 August 6, 2008	August 1, 2008
Ziff Davis Media	July 25, 2008 July 31, 2008 August 7, 2008		